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Report of the Bills Committee on Inland Revenue (Amendment) Bill 2017

Purpose

This paper reports on the deliberations of the Bills Committee on Inland Revenue (Amendment) Bill 2017 ("the Bill").

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 from the year of assessment 2017-2018:

(a) widening the marginal tax bands from $40,000 to $45,000;

(b) increasing the disabled dependant allowance from $66,000 to $75,000;

(c) increasing the dependent brother/sister allowance from $33,000 to $37,500;

(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; and

(e) increasing the deduction ceiling for self-education expenses from $80,000 to $100,000.

The Bill also amends IRO to give effect to a one-off reduction of 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.

The Bill

3. The major provisions of the Bill are set out below –

(a) Clause 3 amends section 26E of IRO to effect the extension of the years of entitlement for HLI deduction from 15 years to 20 years.

(b) Clause 4 amends section 89 of IRO to provide that the transitional provisions set out in the new Schedule 39 (added by clause 9) have effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2017-2018.

(c) Clause 5 adds a new section 99 to IRO. The new section and the new Schedule 40 (added by clause 9) provide for the reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2016-2017 by 75%, subject to a ceiling of $20,000 in each case.

(d) Clause 6 amends Schedule 2 to IRO to widen the marginal tax bands for the year of assessment 2017-2018 and for each subsequent year of assessment.

(e) Clause 7 amends Schedule 3A to IRO to increase the deduction ceiling for self-education expenses from $80,000 to $100,000 for the year of assessment 2017-2018 and for each subsequent year of assessment.

(f) Clause 8 amends Schedule 4 to the IRO to increase the following for the year of assessment 2017-2018 and each subsequent year of assessment:

(i) the amount of dependent brother/sister allowance granted under section 30B of IRO from $33,000 to $37,500; and

(ii) the amount of disabled dependant allowance granted under section 31A of the IRO from $66,000 to $75,000.

(g) Clause 9 adds new Schedules 39 and 40 to IRO. The new Schedule 39 provides for the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2017-2018.

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

The Bills Committee

5. The House Committee agreed at its meeting on 24 March 2017 to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in the **Appendix**. Under the chairmanship of Hon Kenneth LEUNG, the Bills Committee has held one meeting to discuss with the Administration.

Deliberations of the Bills Committee

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

Rationales for the tax concession proposals

7. Members have enquired about the rationales for and the considerations underlying the tax concessions proposed in the 2017-2018 Budget, including whether the Administration has taken into account factors such as inflation, relevant expenses of taxpayers,[1] and population policy/structure for adjusting the tax allowances and deduction ceilings in question. Hon WU Chi-wai considers that the Government should put in place a mechanism to review and adjust the tax allowances or deduction ceilings regularly so as to ensure that the intended benefits of alleviating the tax burden of taxpayers are maintained, and not offset/reduced by inflation and other circumstances. The suggested review mechanism will also provide greater certainty to budget planning.

8. The Administration advises that it has taken into account the prevailing local and external economic environment, inflation and economic outlook, impact of the proposed tax concessions on Government's fiscal position, public expenditure trend, taxation regime, and the views expressed by the public and

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[1] In relation to the proposed adjustment of tax allowances and deduction ceilings under the Bill, the relevant expenses may include educational expenses borne by taxpayers for dependent brothers/sisters, medical expenses for disabled dependants, and self-education expenses.

various stakeholders during the consultation on 2017-2018 Budget, in finalizing the proposed tax concession measures. There is no specific mechanism for determining the timing and extent of adjusting each tax allowance and deduction ceiling, and no reference made to the levels of specific expenses borne by taxpayers that are relevant to the tax allowances/deductions. In fact, certain items such as the child allowance and the dependent parent/grandparent allowance are adjusted more frequently due to their wider public concern. Besides, the tax concessions offered may vary from year to year in echo to the keynote of the budget, which may include considerations for the population policy as in the case of increasing child allowance to help boost the birth rates, or increasing dependent parent/grandparent allowance to promote care for the elderly.

9. The Administration stresses that increasing tax allowances and deduction ceilings has long-term and cumulative fiscal impact that should warrant careful consideration. In this regard, the Administration will strike a balance of all factors to determine which tax allowances and deduction ceilings should be adjusted in a particular year, and whether one-off tax reductions can be offered.

<u>Widening of marginal tax bands</u>

10. Noting that the marginal tax bands are proposed to be widened but the marginal tax rates remain unchanged under the Bill, the Bills Committee has enquired whether fiscal implication is the main factor in determining whether to widen the marginal tax bands or reduce the marginal tax rates. The Administration has reiterated that various factors will be taken into account when deciding what tax measures should be introduced. In the current context, the proposed widening of tax bands from $40,000 to $45,000 will benefit 1.3 million salaries taxpayers, covering about two-thirds of the some 1.8 million salaries taxpayers in total. The remainder are either salaries taxpayers whose annual incomes are relatively high that enter the standard tax rate zone, or whose net chargeable incomes (i.e. assessable incomes after deductions and allowances) are below $40,000 (i.e. the width of the existing marginal tax bands).

<u>Deduction ceiling for self-education expenses</u>

11. The Bills Committee notes that in order to be eligible for claiming deductions for self-education expenses, the expenses must be incurred in respect of prescribed courses of education which were undertaken for gaining or maintaining qualifications for use in any employment. For a course to be qualified as "prescribed course of education", the course provider must be a specified education provider or a trade, professional or business association, or the course must be accredited or recognized by an institution specified in

Schedule 13 of IRO.[2] According to the Administration, about 156 000 taxpayers have claimed deductions for self-education expenses at $16,000 on average for the year of assessment 2014-2015. Based on the latest statistics of the Inland Revenue Department, a total of 2 735 taxpayers (or 1.8% of total claimants) claimed the maximum deductible amount of $80,000 in the same year of assessment.[3]

12. The Bills Committee observes that the proposed increase of deduction ceiling from $80,000 to $100,000 for self-education expenses will benefit only some 3 500 taxpayers, who are likely those with higher earnings and can afford courses of higher fees, instead of the taxpayers at large. Some members consider that the Administration should review the scope of prescribed courses of education or education providers from time to time to accommodate the self-education needs of taxpayers, with a view to enabling more taxpayers to claim the deductions.

13. Specifically, Dr Hon KWOK Ka-ki holds that the prescribed courses of education should include those undertaken by carers or healthcare professionals for taking care of chronic disease patients and ex-mentally ill persons. This will in turn help encourage education providers to conduct more courses of this kind for the benefit of both the needy and the community at large. Hon IP Kin-yuen considers that if tax deduction for self-education expenses is meant to provide financial relief to taxpayers, especially the lower income groups, the prescribed courses of education should not be confined to those for gaining or maintaining qualifications by the taxpayers in their employment. He has therefore enquired on the feasibility of introducing Committee Stage amendments ("CSAs") with a view to expanding the scope of prescribed courses of education to cover healthcare-related courses undertaken by taxpayers for supporting dependants who are chronic disease patients or ex-mentally ill persons.

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[2] Under section 12(6)(d) of IRO, an education provider means (a) a university, university college or technical college; (b) a place of education to which the Education Ordinance (Cap. 279) ("EO") does not apply by virtue of section 2 of that Ordinance; (c) a school registered under section 13(a) of EO; (d) a school exempted from registration under section 9(1) of EO; (e) an institution approved by the Commissioner of Inland Revenue (the Commissioner) for the purposes of section 16C of IRO; or (f) an institution approved by the Commissioner in writing.

[3] According to the Administration, when claiming deduction for self-education expenses, taxpayers only need to put down the actual amounts paid in the relevant box in their Tax Return – Individuals for the year of assessment in which they paid the fees without the need to complete any additional claim form. Given the simple procedure to claim deduction for self-education expenses, the Administration has advised that the Inland Revenue Department does not have information on the types of courses pursued by the taxpayers concerned. Nor are there any statistics about the occupation of taxpayers who claimed deduction for self-education expenses.

14. Hon KWOK Wai-keung, on the other hand, has suggested that instead of adjusting the deduction ceiling for self-education expenses which has a bearing only on the calculation of assessable income but minimal impact on the ultimate amount of tax payable, it may be more beneficial to offer direct tax cut based on the amount of individual taxpayer's self-education expenses in future.

15. Taking note of members' views and suggestions, the Administration explains that there is no formula for determining the amount of increase in the deduction ceiling for self-education expenses. The proposed increase has taken into account various factors, one of which is that the ceiling has not been adjusted for a few years since the year of assessment 2013-2014 when the ceiling was last adjusted from $60,000 to $80,000. In order to encourage self-education and lifelong learning, the Administration considers it timely and appropriate to increase the maximum deductible amount by 20% to $100,000 as proposed from the year of assessment 2017-2018.

16. Regarding the feasibility of introducing CSAs with a view to expanding the scope of prescribed courses of education as suggested by Hon IP Kin-yuen, the Chairman and the Legal Adviser to the Bills Committee have referred members to the limitation on proposing CSAs which may dispose of or charge any part of the revenue or other public moneys of Hong Kong, and advised that whether the suggested CSAs may have possible charging effect will be a factor to be considered by the President of LegCo in determining their admissibility. In the light of this, Hon IP Kin-yuen has indicated that he will not pursue the suggested CSAs. Instead, he has requested the Administration to actively consider, in contexts outside the Bill, members' suggestion of expanding the scope of prescribed courses of education. The Administration has stated that it will review the matter as and when necessary.

17. At the request of the Bills Committee, the Administration has provided for members' reference supplementary information on the approved education providers, prescribed courses of education and examples of healthcare-related courses offered by institutions specified in Schedule 13 of IRO.[4]

<u>Disabled dependant allowance</u>

18. The Bills Committee notes that the disabled dependant allowance was last adjusted from $60,000 to $66,000 from the year of assessment 2012-2013, and the allowance has not been adjusted for five years since then. According to the Administration, the proposed increase to $75,000 from the year of assessment 2017-2018 has made reference to, among other factors, the inflation

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[4] Please refer to paragraph 4 of the Administration's written response to issues raised at the Bills Committee meeting on 11 April 2017 (LC Paper No. CB(1)852/16-17(02) issued on 20 April 2017).

rate and the amount of increase in the last adjustment. Dr Hon KWOK Ka-ki points out that the rising medical and other expenses borne by taxpayers for their disabled dependants have far outpaced inflation, and expresses disappointment that the Administration did not take into account the level of these expenses in determining the extent of adjustment to the disabled dependant allowance. The Administration has taken note of Dr KWOK's suggestion for consideration in future adjustment exercises.

Home loan interest deduction

19. As the mortgage tenure in general commonly exceeds 20 years, Hon KWOK Wai-keung considers that extending the entitlement period for HLI deduction from 15 years to 20 years is not sufficient to cover the full mortgage tenure. The Administration has advised that 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 current proposal to extend the entitlement period to 20 years would benefit taxpayers on home mortgages in respect of their principal place of residence.

Committee Stage amendments

20. The Bills Committee and the Administration will not propose CSAs to the Bill.

Resumption of Second Reading debate on the Bill

21. The Bills Committee supports the resumption of the Second Reading debate on the Bill at the Council meeting of 17 May 2017.

Consultation with the House Committee

22. The Bills Committee reported its deliberations to the House Committee on 5 May 2017.

Council Business Division 1
Legislative Council Secretariat
9 May 2017

Appendix

Bills Committee on Inland Revenue (Amendment) Bill 2017

Membership list

Chairman	Hon Kenneth LEUNG
Members	Hon WONG Ting-kwong, SBS, JP Hon WU Chi-wai, MH Dr Hon KWOK Ka-ki Hon KWOK Wai-keung Hon Christopher CHEUNG Wah-fung, SBS, JP Dr Hon Fernando CHEUNG Chiu-hung Hon IP Kin-yuen Dr Hon Junius HO Kwan-yiu, JP
	(Total : 9 members)
Clerk	Ms Angel SHEK
Legal Adviser	Miss Rachel DAI