

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) BILL 2017

INTRODUCTION

At the meeting of the Executive Council on 22 February 2017, the Council ADVISED and the Chief Executive ORDERED that the A Inland Revenue (Amendment) Bill 2017 (the Bill), at **Annex A**, should be introduced into the Legislative Council (LegCo).

JUSTIFICATIONS

Proposed Adjustments to Salaries Tax and Tax under Personal Assessment

2. Government has proposed in the 2017-18 Budget the following adjustments to salaries tax and tax under personal assessment, with effect from the year of assessment 2017/18 –
 - (a) widening the marginal tax bands from \$40,000 to \$45,000. This measure will benefit 1.3 million taxpayers and reduce tax revenue by \$1.5 billion a year;
 - (b) increasing the disabled dependant allowance from \$66,000 to \$75,000. This measure will benefit 35 000 taxpayers and reduce tax revenue by \$50 million a year;
 - (c) increasing the dependent brother/sister allowance from \$33,000 to \$37,500. This measure will benefit 23 800 taxpayers and reduce tax revenue by \$13 million a year;

- (d) extending the entitlement period for home loan interest deduction from 15 years to 20 years, while maintaining the current deduction ceiling of \$100,000 a year. This measure will reduce tax revenue by \$430 million a year; and
- (e) increasing the deduction ceiling for self-education expenses from \$80,000 to \$100,000. This measure will benefit 3 500 taxpayers and reduce tax revenue by \$8 million a year.

The above adjustments will together reduce tax revenue by \$2 billion each year.

Proposed One-off Tax Reduction for the Year of Assessment 2016/17

3. The 2017-18 Budget also proposes a one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2016/17 by 75%, subject to a ceiling of \$20,000 per case. The reduction will be reflected in taxpayers' final tax payable for the year of assessment 2016/17. The proposed one-off reduction will benefit 1.84 million taxpayers of salaries tax and tax under personal assessment, and 132 000 tax-paying corporations and unincorporated businesses. The revenue forgone for 2017-18 amounts to \$18.3 billion.

OTHER OPTIONS

4. Amending the Inland Revenue Ordinance (Cap. 112) (IRO) is the only way to give effect to the relevant proposals. There is no other option.

THE BILL

5. The major provisions of the Bill are set out below –
- (a) **Clause 3** amends section 26E of the IRO to effect the extension of the years of entitlement for home loan interest deduction from 15 years to 20 years.
 - (b) **Clause 4** amends section 89 of the 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 2017/18.

- (c) **Clause 5** adds a new section 99 to the 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 2016/17 by 75%, subject to a ceiling of \$20,000 in each case.
- (d) **Clause 6** amends Schedule 2 to the IRO to widen the marginal tax bands for the year of assessment 2017/18 and for each subsequent year of assessment.
- (e) **Clause 7** amends Schedule 3A to the IRO to increase the deduction ceiling for self-education expenses from \$80,000 to \$100,000 for the year of assessment 2017/18 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 2017/18 and each subsequent year of assessment –
 - (i) the amount of dependent brother / sister allowance granted under section 30B of the 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 the 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 2017/18.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be as follows –

Publication in the Gazette	3 March 2017
First Reading and commencement of Second Reading debate	22 March 2017
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

7. We estimate that the proposed adjustments to the salaries tax and tax under personal assessment in paragraph 2 above will reduce tax revenue by \$2 billion each year. As for the proposed one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2016/17 in paragraph 3 above, the estimated one-off revenue forgone is \$18.3 billion.

8. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The proposals will not affect the binding effect of the existing provisions of the IRO and its subsidiary legislation. The economic, sustainability and family implications of the proposals are at **Annex B**. The proposals have no productivity, environmental, gender or civil service implications.

B

PUBLIC CONSULTATION

9. We have formulated the proposals after taking into account views received from LegCo Members and other stakeholders during the Budget consultation process. Owing to the confidentiality of the Budget, we have not carried out consultation specifically with reference to the proposals in the Bill.

PUBLICITY

10. We will issue a press release on the Bill on 3 March 2017. A spokesperson will be available to answer media and public enquiries.

ENQUIRIES

11. 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
1 March 2017

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) BILL 2017

ANNEXES

- | | |
|---------|---|
| Annex A | Inland Revenue (Amendment) Bill 2017 |
| Annex B | Economic, Sustainability and Family Implications
of the Proposal |

Inland Revenue (Amendment) Bill 2017

Contents

Clause	Page
1. Short title.....	1
2. Inland Revenue Ordinance amended.....	1
3. Section 26E amended (home loan interest)	1
4. Section 89 amended (transitional provisions)	2
5. Section 99 added.....	2
99. Reduction of taxes for year of assessment 2016/17.....	2
6. Schedule 2 amended (rates)	2
7. Schedule 3A amended (deduction for expenses of self- education).....	3
8. Schedule 4 amended (allowances)	3
9. Schedules 39 and 40 added.....	5
Schedule 39 Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2017/18	5
Schedule 40 Reduction of Taxes for Year of Assessment 2016/17.....	8

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 2017–2018 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) Ordinance 2017.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 9.

3. Section 26E amended (home loan interest)

(1) Section 26E(4)(c)—

Repeal

“15 years”

Substitute

“20 years”.

(2) Section 26E(10)(a)(ii)—

Repeal

“or”.

(3) After section 26E(10)(a)(iii)—

Add

“(iv) in force immediately before 1 April 2017; or”.

4. Section 89 amended (transitional provisions)

Section 89—

Add

“(18) Schedule 39 has effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment commencing on 1 April 2017.”.

5. Section 99 added

After section 98—

Add

“99. Reduction of taxes for year of assessment 2016/17

Schedule 40 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 2016.”.

6. Schedule 2 amended (rates)

(1) Schedule 2, subheading—

Repeal

“For the year of assessment 2008/09 and for each year after that year”

Substitute

“For the years of assessment 2008/09 to 2016/17 inclusive”.

(2) At the end of Schedule 2—

Add

“For the year of assessment 2017/18 and for each year after that year

Second Column

Third Column

(a) On the first \$45,000

2%

(b) On the next \$45,000

7%

(c) On the next \$45,000

12%

(d) On the remainder

17%”.

7. Schedule 3A amended (deduction for expenses of self-education)

Schedule 3A—

Repeal item 6

Substitute

“6. For the years of assessment 2013/14 to 2016/17 inclusive

\$80,000

7. For the year of assessment 2017/18 and for each year after that year

\$100,000”.

8. Schedule 4 amended (allowances)

(1) Schedule 4, subheading—

Repeal

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

Substitute

“For the year of assessment 2016/17”.

(2) At the end of Schedule 4—

Add

“For the year of assessment 2017/18 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)	\$ 37,500

First Column
(section)

Second Column
(the prescribed amount)

6.	Section 31 (child 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)	\$ 75,000
8.	Section 32(1) (single parent allowance)	\$132,000”.

9. Schedules 39 and 40 added

The Ordinance—

Add

“Schedule 39

[s. 89(18)]

Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2017/18

1. Interpretation

In this Schedule—

expenses of self-education (個人進修開支) has the meaning given by section 12(6)(b);

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

year of assessment 2017/18 (2017/18 課稅年度) means the year of assessment commencing on 1 April 2017.

2. Allowances granted for year of assessment 2017/18

(1) For the purposes of section 63C(1), in calculating the net chargeable income of a person for the year of assessment 2016/17 to ascertain the provisional salaries tax in respect of the year of assessment 2017/18—

(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 2017/18 under Part 5 as amended by the Inland Revenue (Amendment) Ordinance 2017 (of 2017).

(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 2017/18, 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 2016/17 as calculated in accordance with subsection (1).

3. Application for holding over of 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 2017/18 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 the person is required to pay salaries tax for the year.

(2) The ground is that the total amount of the expenses of self-education paid or to be paid by the person during the year of assessment 2017/18, to the extent to which a deduction in respect of the expenses is allowable under section 12 for the year, exceeds or is likely to exceed \$80,000.

(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 of this Schedule.

(2) The application must be made in writing.

(3) The application must be made not later than—

(a) the 28th day before the day by which the provisional salaries tax is to be paid; or

(b) the 14th day 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, the Commissioner may, either generally or in a particular case, extend the time within which an 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 40

[s. 99]

Reduction of Taxes for Year of Assessment 2016/17

1. Salaries tax

The amount of salaries tax charged under Part 3 for the year of assessment commencing on 1 April 2016 is reduced by an amount equal to the lesser of the following amounts—

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

2. Profits tax

- (1) The amount of profits tax charged under Part 4 for the year of assessment commencing on 1 April 2016 is reduced by an amount equal to the lesser of the following amounts—
 - (a) 75% of the amount of the tax as computed under section 14 read together with sections 14A, 14B and 14D;
 - (b) \$20,000.
- (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 2016, 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 2016 is reduced by an amount equal to the lesser of the following amounts—
 - (a) 75% of the amount of the tax as computed under section 43(1) read together with section 43(1A);
 - (b) \$20,000.
- (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 2016, 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 2017–2018 financial year.

2. Clause 1 sets out the short title.
3. Clause 3 amends section 26E of the Ordinance to effect the extension of the years of entitlement for deduction of home loan interest from assessable income from 15 years to 20 years.
4. Clause 4 amends section 89 of the Ordinance 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 2017/18.
5. Clause 5 adds a new section 99 to the Ordinance. 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 2016/17 by 75%, subject to a maximum of \$20,000 in each case.
6. Clause 6 amends Schedule 2 to the Ordinance to widen the marginal tax bands for the year of assessment 2017/18 and for each subsequent year of assessment.
7. Clause 7 amends Schedule 3A to the Ordinance to increase the maximum amount deductible from assessable income for the expenses of self-education. The maximum deductible amount is increased from \$80,000 to \$100,000 for the year of assessment 2017/18 and for each subsequent year of assessment.
8. Clause 8 amends Schedule 4 to the Ordinance to increase—

- (a) the amount of dependent brother or dependent sister allowance granted under section 30B of the Ordinance from \$33,000 to \$37,500; and
- (b) the amount of disabled dependant allowance granted under section 31A of the Ordinance from \$66,000 to \$75,000.

The increases take effect for the year of assessment 2017/18 and each subsequent year of assessment.

9. Clause 9 adds new Schedules 39 and 40 to the Ordinance. 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 2017/18.

Economic, Sustainability and Family Implications of the Proposal

Economic Implications

The proposed concessionary tax measures will help relieve the financial burden of taxpayers and stimulate local consumption. The enhancement in the deduction ceiling for self-education expenses will encourage lifelong learning and should be conducive towards upgrading the productivity of the workforce. In addition, the proposed one-off reduction of profits tax will enable enterprises to have more disposable funds.

Sustainability Implications

2. The proposed concessionary tax measures are expected to generate economic benefits to households through increasing their disposable incomes, promote social harmony through alleviating taxpayers' burden in maintaining disabled dependants and dependent brothers/sisters and facilitate the upgrading of our workforce through encouraging taxpayers to pursue further education. The proposed one-off reduction of profits tax will encourage enterprises to make more reinvestment with a view to enhancing their competitiveness.

Family Implications

3. The proposed increases in the disabled dependant allowance and dependent brother/sister allowance will help strengthen taxpayers' capability to foster care of their family members.