

Bills Committee on Inland Revenue (Amendment) (No. 4) Bill 2018

Draft Committee Stage Amendments Proposed by the Government

Purpose

This paper sets out the draft Committee Stage Amendments (CSAs) to the Inland Revenue (Amendment) (No. 4) Bill 2018 (the Bill) to be proposed by the Government.

Proposed Amendments

2. The proposed CSAs and a marked-up version of relevant clauses of the Bill are at **Annex A** and **Annex B** respectively. The background and rationale of those proposed CSAs are set out in the ensuing paragraphs. The proposed CSAs are technical in nature.

(i) Revised Definition of “Sibling”

3. In the proposed section 26J(4) of the Bill, the definition of “sibling” includes “an adopted sibling of the person or of the person’s spouse”. Taking into account the observations of the Assistant Legal Adviser of the Bills Committee, the proposed CSAs revise the definition of “sibling” in the Bill to cover both – (a) an individual who is adopted by the taxpayer’s (or the spouse’s) parents; and (b) a natural child of an adoptive parent of the taxpayer (or the spouse) if the taxpayer (or the spouse) is himself or herself an adopted child.

(ii) Consequential Amendments Further to the Passage of Inland Revenue (Amendment) Bill 2018

4. The Inland Revenue (Amendment) Bill 2018, which was passed on 16 May 2018, introduced new provisions under sections 63CA and 63E of the Inland Revenue Ordinance (Cap. 112) (the principal Ordinance) to provide standing provisions for computing provisional salaries tax and holding over of payment of provisional salaries tax. The standing provisions facilitate the introduction of concessionary measures in future, such as the adjustment of specified amounts of concessionary deductions for

salaries tax and tax under personal assessment. Since the new concessionary deduction under the proposed new section 26K of the Bill is also subject to a specified amount of maximum deduction, we propose CSAs to amend sections 63CA and 63E to cover the new concessionary deduction.

(iii) Consequential Amendments Further to the Passage of Inland Revenue (Amendment) (No. 6) Bill 2017

5. Clauses 9 and 10 of the Bill amend sections 80 and 82A of the principal Ordinance to provide for penalty and additional tax in lieu of prosecution for a failure to comply with the proposed new section 26M(3)(a). In view of the amendments made to sections 80 and 82A by the Inland Revenue (Amendment) (No. 6) Bill 2017, which was passed on 4 July 2018, consequential amendments to this Bill are required. The proposed CSAs revise the proposed amendments in Clauses 9 and 10 of the Bill with reference to the new formulation of sections 80 and 82A. The proposed CSAs would not change the intended meaning of the original proposed amendments.

Food and Health Bureau
Inland Revenue Department
13 July 2018

Inland Revenue (Amendment) (No. 4) Bill 2018

Committee Stage

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
8	In the proposed section 26J(4), in the Chinese text, in the definition of <i>兄弟姊妹</i> , in paragraph (b), by adding “(如該人或其配偶是受領養者，則該人或其配偶除外)” after “領養子女”.
8	In the proposed section 26J(4), in the definition of <i>sibling</i> , in paragraph (c), by deleting “; or” and substituting a semicolon.
8	In the proposed section 26J(4), in the definition of <i>sibling</i> , by adding— “(ca) if the person or the person’s spouse is adopted—a natural child of an adoptive parent of the person or of the person’s spouse; or”.
8	In the proposed section 26J(4), in the definition of <i>sibling</i> , in paragraph (d), by deleting “or (c)” and substituting “, (c) or (ca)”.
New	By adding— “8A. Section 63CA amended (calculating net chargeable income for computing provisional salaries tax: meaning of certain references) (1) Section 63CA(3)(b)— Repeal “and”. (2) Section 63CA(3)(c)— Repeal the full stop Substitute “; and”.

(3) After section 63CA(3)(c)—

Add

“(d) the deduction under section 26K (qualifying premiums paid under VHIS policy) allowable to that person not exceeding the amount specified in Schedule 3E for the relevant year of assessment.”.

(4) Section 63CA(4)(b)—

Repeal

“and”.

(5) Section 63CA(4)(c)—

Repeal the full stop

Substitute

“; and”.

(6) After section 63CA(4)(c)—

Add

“(d) the deduction under section 26K (qualifying premiums paid under VHIS policy) allowable to them not exceeding the amount specified in Schedule 3E for the relevant year of assessment.”.

8B. Section 63E amended (holding over of payment of provisional salaries tax)

(1) After section 63E(2)(bd)—

Add

“(be) that the person assessed to provisional salaries tax, or the person’s spouse (not being a spouse living apart from the person), or both of them, has or have paid, or is or are likely to pay, during the year of assessment, qualifying premiums (as defined by section 26I(1)) that—

(i) are allowable for deduction under section 26K; and

(ii) in total, exceed or are likely to exceed the amount specified in Schedule 3E for the year preceding the year of assessment;”.

(2) Section 63E(2B)—

Repeal

“or (bd)”

Substitute

“, (bd) or (be)”.

9 By deleting subclause (2).

10 By deleting subclause (2).

10 By deleting subclause (3) and substituting—

“(3) Section 82A(4)(a)(i)(A)—

Repeal

“or alleged failure to comply with a requirement of the notice given to the person under section 51(1) or (2A) or”

Substitute

“, the alleged failure to comply with section 26M(3)(a), the alleged failure to comply with a requirement of the notice given to the person under section 51(1) or (2A) or the”.

12 In the proposed Schedule 3E, by deleting “& 26LJ” and substituting “, 26L, 63CA & 63EJ”.

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Amendments to be moved by the Secretary for Food and Health

(Mark-up Version)

[**Note:** This marked-up version is for reference only. In case of discrepancy, the detailed CSAs at Annex A shall prevail.]

8. 加入第 4A 部第 6 分部

第 4A 部，在第 5 分部之後 ——
加入

“第 6 分部 —— 醫療保險保費

...

26J. 指明親屬的涵義

...

兄弟姊妹 (sibling)就某人而言，指 ——

- (a) 該人的或其配偶的同胞兄弟姊妹，或該人的或其配偶的同父異母或同母異父的兄弟姊妹；
- (b) 該人的或其配偶的父母的領養子女(如該人或其配偶是受領養者，則該人或該其配偶除外)；
- (c) 該人的或其配偶的繼父或繼母的子女(該人及其配偶除外)；或
- (d) 如配偶已故——若非該配偶已故，則會因(a)、(b)或(c)段的規定而是該人的兄弟姊妹的個人；

8. Part 4A, Division 6 added

Part 4A, after Division 5—

Add

“**Division 6—Health Insurance Premiums**

...

26J. Meaning of *specified relative*

...

sibling (兄弟姊妹), in relation to a person, means—

- (a) a full or half blood sibling of the person or of the person’s spouse;
- (b) an adopted sibling of the person or of the person’s spouse;

- (c) a step sibling of the person or of the person’s spouse~~;~~~~or~~;
- (ca) if the person or the person’s spouse is adopted—a natural child of an adoptive parent of the person or of the person’s spouse; or
- (d) if the person’s spouse is deceased—an individual who would have been the sibling of the person under paragraph (a), (b)~~or (e)~~, (c) or (ca) if the spouse had not died.

...

8A. Section 63CA amended (calculating net chargeable income for computing provisional salaries tax: meaning of certain references)

- (1) Section 63CA(3)(b)—
Repeal
“and”.
- (2) Section 63CA(3)(c)—
Repeal the full stop
Substitute
“; and”.
- (3) After section 63CA(3)(c)—
Add
“(d) the deduction under section 26K (qualifying premiums paid under VHIS policy) allowable to that person not exceeding the amount specified in Schedule 3E for the relevant year of assessment.”.
- (4) Section 63CA(4)(b)—
Repeal
“and”.
- (5) Section 63CA(4)(c)—
Repeal the full stop
Substitute
“; and”.
- (6) After section 63CA(4)(c)—
Add
“(d) the deduction under section 26K (qualifying premiums paid under VHIS policy) allowable to them not exceeding the amount specified in Schedule 3E for the relevant year of assessment.”.

8B. Section 63E amended (holding over of payment of provisional salaries tax)

- (1) After section 63E(2)(bd)—
Add
“(be) that the person assessed to provisional salaries tax, or the person’s spouse (not being a spouse living apart from the person), or both of them, has or have paid, or is or are likely to pay, during the year of assessment, qualifying premiums (as defined by section 26I(1)) that—
 - (i) are allowable for deduction under section 26K; and
 - (ii) in total, exceed or are likely to exceed the amount specified in Schedule 3E for the year preceding the year of assessment;”.
- (2) Section 63E(2B)—
Repeal

“or (bd)”

Substitute

“, (bd) or (be)”.

9. Section 80 amended (penalties for failure to make returns, making incorrect returns, etc.)

(1) After section 80(2)(c)—

Add

“(ca) fails to comply with section 26M(3)(a);”.

~~(2) Section 80(2), before “the failure to comply with a notice under section 51(1) or (2A)”~~

Add

~~“the failure to comply with section 26M(3)(a);”.~~

10. Section 82A amended (additional tax in certain cases)

(1) After section 82A(1)(c)—

Add

“(ca) fails to comply with section 26M(3)(a); or”.

~~(2) Section 82A(1)(ii), before “the failure to comply with a notice under section 51(1) or (2A)”~~

Add

~~“the failure to comply with section 26M(3)(a);”.~~

~~(3) Section 82A(4)(a)(i)~~

Repeal

~~“or alleged failure”~~

Substitute

~~“, the alleged failure to comply with section 26M(3)(a), the alleged failure”.~~

(3) Section 82A(4)(a)(i)(A)—

Repeal

“or alleged failure to comply with a requirement of the notice given to the person under section 51(1) or (2A) or”

Substitute

“, the alleged failure to comply with section 26M(3)(a), the alleged failure to comply with a requirement of the notice given to the person under section 51(1) or (2A) or the”.

...

12. Schedule 3E added

After Schedule 3D—

Add

“Schedule 3E

[ss. 26K ~~& 26L~~, 26L,
63CA & 63E]