

Inland Revenue (Amendment) Bill 2018

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A BILL

To

Amend the Inland Revenue Ordinance to give effect to certain proposals concerning tax concessions in the Budget introduced by the Government for the 2018–2019 financial year; to introduce a new personal disability allowance; to provide for the meaning of certain references for the purposes of calculating a person's net chargeable income for computing provisional salaries tax; to introduce additional grounds for the holding over of payment of provisional salaries tax and provisional profits tax, and provide for the extension of the time limit for an application for the holding over of those taxes on those grounds; and to provide for incidental and related matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 2018.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 16.

3. Section 28A added

After section 28—

Add

“28A. Personal disability allowance

An allowance of the prescribed amount is to be granted in any year of assessment to a person who is eligible to claim an allowance under the Government’s Disability Allowance Scheme in the year of assessment.”.

4. Section 63C amended (amount of provisional salaries tax)

(1) Section 63C(1), proviso—

Repeal paragraph (i).

(2) Section 63C(1), proviso, paragraph (ii)—

Repeal

everything from “in respect of” to “assessment.”.

5. Section 63CA added

After section 63C—

Add

“63CA. Calculating net chargeable income for computing provisional salaries tax: meaning of certain references

(1) This section applies for the purposes of calculating the net chargeable income of a person for the year preceding a year of assessment to ascertain the provisional salaries tax for the year of assessment (*relevant year of assessment*) under section 63C(1).

(2) For the purposes of deducting any expenses of self-education (as defined by section 12(6)(b)) from a

person's assessable income for the year preceding a year of assessment, the reference in section 12(1)(e) to "the amount prescribed in subsection (6)" is taken to be a reference to the amount specified in Schedule 3A for the relevant year of assessment.

- (3) For the purposes of deduction from a person's net assessable income for the year preceding a year of assessment, the reference in section 12B(1)(a) to "such deductions as are under Part 4A allowable to that person" is taken to be a reference to—
 - (a) the deduction under section 26D (elderly residential care expenses) allowable to that person not exceeding the amount specified in Schedule 3C for the relevant year of assessment;
 - (b) the deduction under section 26E (home loan interest) allowable to that person not exceeding the amount specified in Schedule 3D for the relevant year of assessment; and
 - (c) the deduction under section 26G (contributions to recognized retirement schemes) allowable to that person not exceeding the amount specified in Schedule 3B for the relevant year of assessment.
- (4) For the purposes of deduction from the aggregate of the net assessable incomes of a person and the person's spouse for the year preceding a year of assessment, the reference in section 12B(2)(a) to "such deductions as are under Part 4A allowable to them" is taken to be a reference to—

- (a) the deduction under section 26D (elderly residential care expenses) allowable to them not exceeding the amount specified in Schedule 3C for the relevant year of assessment;
 - (b) the deduction under section 26E (home loan interest) allowable to them not exceeding the amount specified in Schedule 3D for the relevant year of assessment; and
 - (c) the deduction under section 26G (contributions to recognized retirement schemes) allowable to them not exceeding the amount specified in Schedule 3B for the relevant year of assessment.
- (5) For the purposes of deduction from a person's net assessable income for the year preceding a year of assessment, the reference in section 12B(1)(b) to "such allowances as are under Part 5 permitted for that person" is taken to be a reference to the allowances that may be granted to that person under Part 5 for the relevant year of assessment.
- (6) For the purposes of deduction from the aggregate of the net assessable incomes of a person and the person's spouse for the year preceding a year of assessment, the reference in section 12B(2)(b) to "such allowances as are under Part 5 permitted in their case" is taken to be a reference to the allowances that may be granted to them under Part 5 for the relevant year of assessment."

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

- (1) After section 63E(2)(b)—

Add

- “(ba) that the person assessed to provisional salaries tax has paid or is likely to pay, during the year of assessment, expenses of self-education (as defined by section 12(6)(b)) that—
- (i) are allowable for deduction under section 12; and
 - (ii) exceed or are likely to exceed the amount specified in Schedule 3A for the year preceding the year of assessment;
- (bb) that the person assessed to provisional salaries tax has paid or is likely to pay, during the year of assessment, contributions to a recognized retirement scheme that—
- (i) are allowable for deduction under section 26G; and
 - (ii) exceed or are likely to exceed the amount specified in Schedule 3B for the year preceding the year of assessment;
- (bc) that the person assessed to provisional salaries tax, or the person’s spouse (not being a spouse living apart from the person), has paid or is likely to pay, during the year of assessment, residential care expenses (as defined by section 26D(5)) that—
- (i) are allowable for deduction under section 26D; and
 - (ii) exceed or are likely to exceed the amount specified in Schedule 3C for the year preceding the year of assessment;

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- (bd) that the person assessed to provisional salaries tax, or the person's spouse (not being a spouse living apart from the person), has paid or is likely to pay, during the year of assessment, home loan interest (as defined by section 26E(9)) that—
- (i) is allowable for deduction under section 26E; and
 - (ii) exceeds or is likely to exceed—
 - (A) if the dwelling to which the home loan interest relates is held by the person or the spouse as a sole owner—the amount specified in Schedule 3D for the year preceding the year of assessment;
 - (B) if the dwelling to which the home loan interest relates is held by the person or the spouse as a joint tenant—the amount specified in Schedule 3D for the year preceding the year of assessment as divided by the number of joint tenants; or
 - (C) if the dwelling to which the home loan interest relates is held by the person or the spouse as a tenant in common—the amount specified in Schedule 3D for the year preceding the year of assessment as multiplied by the share of the person or the spouse in the ownership in the dwelling;”.
- (2) After section 63E(2)—
- Add**

“(2A) For the purposes of subsection (2)(a) and (b), a person’s net chargeable income for the year preceding the year of assessment must be calculated with reference to section 63CA.

(2B) The Commissioner may, if satisfied that it is appropriate, extend (either generally or in a particular case) the time within which an application may be made under subsection (1) on a ground specified in subsection (2)(ba), (bb), (bc) or (bd).”.

7. Section 63H amended (amount of provisional profits tax)

After section 63H(2)—

Add

“(2A) Also, in calculating any assessable profits for the year preceding a year of assessment—

(a) for the purposes of computing provisional profits tax under subsection (1), the reference in section 16AA(1) to “the basis period for any year of assessment” is taken to be a reference to the basis period for the year preceding the year of assessment; and

(b) for the purposes of computing provisional profits tax under subsection (1) in respect of the year of assessment (*relevant year of assessment*), the reference in section 16AA(2)(b) to “that year of assessment” is taken to be a reference to the relevant year of assessment.”.

8. Section 63J amended (holding over of payment of provisional profits tax)

(1) After section 63J(2)(a)—

Add

- “(ab) that the person assessed to provisional profits tax has paid or is likely to pay, during the year of assessment, mandatory contributions that the person is required to pay as a self-employed person under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and the mandatory contributions—
- (i) are allowable for deduction under section 16AA; and
 - (ii) exceed or are likely to exceed the amount specified in Schedule 3B for the year preceding the year of assessment;”.

(2) After section 63J(2)—

Add

“(2A) For the purposes of subsection (2)(a), a person’s assessable profits for the year preceding the year of assessment must be calculated with reference to section 63H(2A).

(2B) The Commissioner may, if satisfied that it is appropriate, extend (either generally or in a particular case) the time within which an application may be made under subsection (1) on the ground specified in subsection (2)(ab).”.

9. Section 100 added

After section 99—

Add

“100. Reduction of taxes

- (1) The amount of a person’s salaries tax charged under Part 3 for a specified year of assessment is reduced by an amount equal to the lesser of—

-
- (a) the prescribed percentage of the amount of the tax as computed under section 13(1) read together with section 13(2), as in force for the year of assessment; and
 - (b) the prescribed amount.
 - (2) The amount of a person's profits tax charged under Part 4 for a specified year of assessment is reduced by an amount equal to the lesser of—
 - (a) the prescribed percentage of the amount of the tax as computed under section 14(2) read together with sections 14A, 14B, 14D, 14H and 14J, as in force for the year of assessment; and
 - (b) the prescribed amount.
 - (3) For a trade, profession or business carried on by a partnership, the reduction under subsection (2) applies to the tax chargeable on the whole of the net assessable profits of the trade, profession or business, whether or not any of the partners has elected to be assessed in accordance with Part 7 for the specified year of assessment.
 - (4) The amount of tax charged under Part 7 for a specified year of assessment is reduced by an amount equal to the lesser of—
 - (a) the prescribed percentage of the amount of the tax as computed under section 43(1) read together with section 43(1A), as in force for the year of assessment; and
 - (b) the prescribed amount.
 - (5) For the purposes of section 43(2B), in ascertaining the portion of tax to be charged on each spouse in a specified year of assessment, the amount of tax to be

apportioned between the husband and wife is the amount as reduced under subsection (4) for the year of assessment.

(6) In this section—

prescribed amount (訂明款額) and ***prescribed percentage*** (訂明百分率), in relation to a specified year of assessment, mean the amount and percentage specified in column 2 of Schedule 44 opposite to, and for the purposes of, the provisions of this section specified in column 1 of that Schedule, for the specified year of assessment;

specified year of assessment (指明課稅年度) means a year of assessment specified in Schedule 44.”.

10. Schedule 2 amended (rates)

(1) Schedule 2, subheading—

Repeal

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

Substitute

“For the year of assessment 2017/18”.

(2) At the end of Schedule 2—

Add

“For the year of assessment 2018/19 and for each year after that year

	Second Column	Third Column
(a)	On the first \$50,000	2%
(b)	On the next \$50,000	6%

Second Column	Third Column
(c) On the next \$50,000	10%
(d) On the next \$50,000	14%
(e) On the remainder	17%”.

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

Schedule 3A—

Repeal

“[s. 12(6)(a)]”

Substitute

“[ss. 12(6)(a), 63CA & 63E]”.

12. Schedule 3B amended (deduction for the purposes of section 16AA or 26G)

Schedule 3B—

Repeal

“[ss. 16AA & 26G]”

Substitute

“[ss. 16AA, 26G, 63CA, 63E & 63J]”.

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

(1) Schedule 3C—

Repeal

“[s. 26D]”

Substitute

“[ss. 26D, 63CA & 63E]”.

- (2) Schedule 3C—

Repeal item 5

Substitute

5.	For the years of assessment 2016/17 and 2017/18	\$92,000
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6.	For the year of assessment 2018/19 and for each year after that year	\$100,000”.
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14. Schedule 3D amended (home loan interest deduction)

Schedule 3D—

Repeal

“[s. 26E]”

Substitute

“[ss. 26E, 63CA & 63E]”.

15. Schedule 4 amended (allowances)

- (1) Schedule 4, subheading—

Repeal

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

Substitute

“For the year of assessment 2017/18”.

- (2) At the end of Schedule 4—

Add

“For the year of assessment 2018/19 and
for each year after that year

	First Column (section)	Second Column (the prescribed amount)
1.	Section 28 (basic allowance)	\$ 132,000
2.	Section 28A (personal disability allowance)	\$ 75,000
3.	Section 29 (married person’s allowance)	\$ 264,000
4.	Section 30 (dependent parent allowance)—	
	(a) subsection (3)(a)	\$ 50,000
	(b) subsection (3)(b)	\$ 50,000
	(c) subsection (3A)(a)	\$ 25,000
	(d) subsection (3A)(b)	\$ 25,000
	(e) subsection (4)(a)	\$ 12,000
5.	Section 30A (dependent grandparent allowance)—	
	(a) subsection (3)(a)	\$ 50,000
	(b) subsection (3)(b)	\$ 50,000
	(c) subsection (3A)(a)	\$ 25,000

First Column (section)	Second Column (the prescribed amount)
(d) subsection (3A)(b)	\$ 25,000
(e) subsection (4)(a)	\$ 12,000
6. Section 30B(1) (dependent brother or dependent sister allowance)	\$ 37,500
7. Section 31 (child allowance)—	
(a) subsection (1)	\$120,000 for each child
(b) subsection (1A)	\$120,000 for each child
(c) subsection (5) (in relation to subsection (1))	\$1,080,000
(d) subsection (5) (in relation to subsection (1A))	\$1,080,000
8. Section 31A(1) (disabled dependant allowance)	\$ 75,000
9. Section 32(1) (single parent allowance)	\$ 132,000”.

16. Schedule 44 added
 The Ordinance—
Add

“Schedule 44

[s. 100]

Reduction of Taxes

For the year of assessment 2017/18

Column 1 (section)	Column 2 (prescribed percentage or prescribed amount)
1. Salaries tax	
(a) section 100(1)(a)	75%
(b) section 100(1)(b)	\$30,000
2. Profits tax	
(a) section 100(2)(a)	75%
(b) section 100(2)(b)	\$30,000
3. Tax under personal assessment	
(a) section 100(4)(a)	75%
(b) section 100(4)(b)	\$30,000”.

Explanatory Memorandum

The objects of this Bill are to amend the Inland Revenue Ordinance (Cap. 112) (*Ordinance*) to give effect to certain proposals concerning tax concessions in the Budget introduced by the Government for the 2018–2019 financial year, to introduce a new personal disability allowance, to provide for the meaning of certain references for the purposes of calculating a person's net chargeable income for computing provisional salaries tax, to introduce additional grounds for the holding over of payment of provisional salaries tax and provisional profits tax, and provide for the extension of the time limit for an application for the holding over of those taxes on those grounds, and to provide for incidental and related matters.

2. Clause 1 sets out the short title.
3. Clause 3 adds a new section 28A to the Ordinance. The new section provides for a new type of allowance to be granted in any year of assessment to a person who is eligible to claim an allowance under the Government's Disability Allowance Scheme in the year of assessment (*personal disability allowance*).
4. Clause 4 repeals certain old references in the proviso to section 63C(1) of the Ordinance.
5. Clause 5 adds a new section 63CA to the Ordinance. The new section provides for the meaning of certain references in section 63C(1) of the Ordinance and other provisions in the Ordinance for the purposes of calculating the net chargeable income of a person for the year preceding a year of assessment to ascertain

the provisional salaries tax of the person for the year of assessment.

6. Clause 6 brings in additional grounds on which a person may rely in an application under section 63E(1) of the Ordinance for the holding over of payment of the provisional salaries tax for a year of assessment. The newly added grounds permit a person to hold over the payment if the person or the person's spouse has paid or is likely to pay expenses of self-education, contributions to recognized retirement schemes, residential care expenses or home loan interest that exceed the amount allowable for deduction for the year preceding the year of assessment. The clause empowers the Commissioner of Inland Revenue to extend the time limit for an application on those new grounds. The clause also requires a person's net chargeable income for the year preceding a year of assessment to be calculated with reference to the new section 63CA.
7. Clause 7 adds a new subsection (2A) to section 63H of the Ordinance to provide for the meaning of certain references for the purposes of computing provisional profits tax under section 63H(1) of the Ordinance.
8. Clause 8 brings in an additional ground on which a person may rely in an application under section 63J(1) of the Ordinance for the holding over of payment of the provisional profits tax for a year of assessment. The newly added ground permits a person to hold over the payment if the person has paid or is likely to pay mandatory contributions under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) that exceed the amount allowable for deduction for the year preceding the year of assessment. The clause empowers the Commissioner of Inland Revenue to extend the time limit for an application on the new ground. The clause also requires a person's assessable profits

for the year preceding a year of assessment to be calculated with reference to the new section 63H(2A).

9. Clause 9 adds a new section 100 to the Ordinance. The new section and the new Schedule 44 (added by clause 16) provide for a framework, by reference to the prescribed amount and prescribed percentage, for the reduction of salaries tax, profits tax and tax under personal assessment payable by a person for a year of assessment specified in that Schedule. For the year of assessment 2017/18, the salaries tax, profits tax and tax under personal assessment payable are to be reduced by 75%, subject to a maximum of \$30,000 in each case.
10. Clause 10 amends Schedule 2 to the Ordinance to widen the marginal tax bands for the year of assessment 2018/19 and for each subsequent year of assessment.
11. Clauses 11, 12 and 14 update certain references in Schedules 3A, 3B and 3D to the Ordinance.
12. Clause 13 amends Schedule 3C to the Ordinance to update a reference and increase the maximum amount of elderly residential care expenses deductible from assessable income from \$92,000 to \$100,000 for the year of assessment 2018/19 and for each subsequent year of assessment.
13. Clause 15 amends Schedule 4 to the Ordinance—
 - (a) to add the amount of \$75,000 as a personal disability allowance granted under the new section 28A;
 - (b) to increase 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 \$46,000 to \$50,000;

- (c) to increase 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 \$23,000 to \$25,000;
- (d) to increase 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 \$46,000 to \$50,000;
- (e) to increase 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 \$23,000 to \$25,000; and
- (f) to increase the amounts of child allowance granted under section 31(1) and (1A) of the Ordinance for each child, both from \$100,000 to \$120,000, and the maximum amount of those allowances granted to a person both from \$900,000 to \$1,080,000.

The new personal disability allowance and the increased amounts for the other allowances take effect for the year of assessment 2018/19 and each subsequent year of assessment.