# *立法會*
# *Legislative Council*

LC Paper No. LS46/17-18

**Paper for the House Committee Meeting
on 23 March 2018**

**Legal Service Division Report on
Inland Revenue (Amendment) Bill 2018**

## I. SUMMARY

1. **The Bill**

The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to give effect to certain proposals concerning tax concessions in the Budget introduced by the Government for the 2018-2019 financial year, which include:

(a) widening the tax bands for salaries tax from $45,000 to $50,000, increasing the number of tax bands from four to five, and adjusting the marginal tax rates;

(b) reducing the salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2017/18 by 75%, subject to a ceiling of $30,000 in each case;

(c) introducing a new personal disability allowance of $75,000;

(d) raising the allowance and additional allowance for dependent parent or grandparent aged 60 or above from $46,000 to $50,000, and those for dependent parent or grandparent aged between 55 and 59 from $23,000 to $25,000;

(e) raising the child allowances from $100,000 to $120,000 and the maximum amount of those allowances from $900,000 to $1,080,000; and

(f) raising the deduction ceiling for elderly residential care expenses from $92,000 to $100,000.

2. **Public Consultation**

No formal consultation on the proposals in the Bill, but the Administration has conducted consultations with Legislative Council Members and other stakeholders during the Budget consultation process.

3. **Consultation with LegCo Panel**

The Panel on Financial Affairs has not been consulted on the Bill.

4. **Conclusion**

No difficulties relating to the legal and drafting aspects of the Bill have been identified.  Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

## II. REPORT

The date of First Reading of the Bill is 21 March 2018. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: TsyB R 183/535-1/5/0 (18-19) (C)) issued by the Financial Services and the Treasury Bureau on 7 March 2018 for further details.

### Object of the Bill

2. The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to give effect to certain proposals concerning tax concessions in the Budget introduced by the Government for the 2018-2019 financial year ("Budget"), and to provide for incidental and related matters.

### Provisions of the Bill

Widening of marginal bands for salaries tax

3. Schedule 2 to Cap. 112 specifies the rates of salaries tax charged on the net chargeable income of a person for each year of assessment. Clause 10 of the Bill seeks to amend Schedule 2 to Cap. 112 to give effect to the proposal in the Budget to (i) widen the marginal bands for salaries tax from $45,000 to $50,000, (ii) increase the number of tax bands from four to five, and (iii) adjust the marginal tax rates to 2%, 6%, 10%, 14% and 17% respectively, for the year of assessment 2018/19 and for each subsequent year of assessment[1].

One-off tax reduction for the year of assessment 2017/18

4. The Budget also proposes a one-off reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2017/18 by 75%, subject to a ceiling of $30,000 in each case[2]. Clauses 9 and 16 of the Bill seek to add a new section 100 and a new Schedule 44 to Cap. 112 respectively to give effect to the proposal.

5. It is noted that instead of providing for the detailed provisions on the one-off reduction of taxes in a new schedule to Cap. 112 as in the past few years, a new drafting approach has been adopted in the Bill in that the detailed provisions are contained in the new section 100 with the prescribed percentages and prescribed ceilings of the proposed reduction in the new Schedule 44. Upon enquiries of the Legal Service Division ("LSD"), the Administration confirmed that a new drafting approach has been adopted. The new section 100 and Schedule 44 would be

[1] Paragraph 184(a) of The 2018-19 Budget Speech by the Financial Secretary moving the Second Reading of the Appropriation Bill 2018 ("the Budget Speech").

[2] Paragraph 187(a) and (b) of the Budget Speech.

standing provisions to provide for one-off reduction of taxes in any given year of assessment, and any proposed one-off reduction of taxes in the future by reference to a percentage of the tax amount and a cap for the tax reduction would be implemented by amendments to the new Schedule 44.

New personal disability allowance

6. Clause 3 seeks to add a new section 28A to Cap. 112 to provide for a new personal disability allowance in the amount of $75,000 (as prescribed in Schedule 4) 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[3].

Increase in various allowances

7. Part 5 of Cap. 112 prescribes the allowances which would be granted to persons chargeable to salaries tax and tax under personal assessment and the circumstances in which such allowances are grantable. The prescribed amount or percentage of the respective allowances is set out in Schedule 4 to Cap. 112.

8. Clause 15 seeks to amend Schedule 4 to Cap. 112 to implement the proposals in the Budget to increase, for the year of assessment 2018/19 and for each subsequent year of assessment:

(a) the amount of dependent parent and grandparent (aged 60 or above) allowance and additional allowance granted under sections 30(1) and 30A(1) of Cap. 112 from $46,000 to $50,000[4];

(b) the amount of dependent parent and grandparent (aged between 55 and 59) allowance and additional allowance granted under sections 30(1A) and 30A(1A) of Cap. 112 from $23,000 to $25,000[5]; and

(c) the amount of basic and additional child allowances granted under section 31(1) and (1A) of Cap. 112 from $100,000 to $120,000 and the maximum amount of those allowances from $900,000 to $1,080,000[6].

9. Section 26D of Cap. 112 provides that residential care expenses paid by a person in respect of a parent or grandparent who is eligible to claim an allowance under the Government’s Disability Allowance Scheme is deductible from the assessable income of that person, subject to the maximum amount specified in relation to that year of assessment in Schedule 3C to Cap. 112. Clause 13 seeks to amend Schedule 3C to Cap. 112 to increase the maximum amount of elderly residential care expenses deductible from assessable income from $92,000 to

[3] Paragraph 184(d) of the Budget Speech.
[4] Paragraph 184(c) of the Budget Speech.
[5] Paragraph 184(c) of the Budget Speech.
[6] Paragraph 184(b) of the Budget Speech.

$100,000 for the year of assessment 2018/19 and for each subsequent year of assessment[7].

Meaning of references contained in provisions under Cap. 112

10. Under Parts 10A and 10B of Cap. 112, persons chargeable to salaries or profits tax in respect of any year of assessment shall be liable to pay provisional salaries or profits tax for that year of assessment. Section 63C of Cap. 112 provides that provisional salaries tax is payable at the rates specified in Schedule 2 to Cap. 112 by reference to the person's net chargeable income (calculated with reference to sections 12 and 12B of Cap. 112) for the preceding year of assessment. Section 63H of Cap. 112 provides that provisional profits tax is payable at the standard rate by reference to the assessable profits (after setting off any loss) for the preceding year of assessment.

11. Clause 5 seeks to add a new section 63CA to Cap. 112 to specify the meaning of certain references in sections 12 and 12B of Cap. 112 to allowable deductions prescribed in Parts 4A and 5 of Cap. 112, which are relevant to calculating the net chargeable income of a person for the purpose of computing the provisional salaries tax payable by that person. Clause 7 seeks to add a new section 63H(2A) to Cap. 112 to specify the meaning of certain references in section 16AA of Cap. 112, which provides for allowable deduction for self-employed person's mandatory contributions under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) which is relevant to calculating the assessable profits for the purpose of computing provisional profits tax.

Holding over of payment of provisional salaries tax and provisional profits tax

12. Clauses 6 and 8 seek to amend sections 63E(2) and 63J(2) to introduce additional grounds on which a person may apply for holding over of payment of provisional salaries tax and provisional profits tax. Under these new grounds, (i) a person would be allowed to hold over payment of provisional salaries tax if the person or the person's spouse has paid or is likely to pay certain specified expenses exceeding the amount allowable for deduction for the year preceding the year of assessment, and (ii) a person would be allowed to hold over payment of provisional profits tax if the person has paid or is likely to pay mandatory contributions under Cap. 485 exceeding the amount allowable for deduction for the year preceding the year of assessment. Clauses 6 and 8 also seek to add new sections 63E(2B) and 63J(2B) to Cap. 112 to provide for extension of time limit for an application for holding over payment of those taxes on the proposed new grounds.

13. It is noted that instead of providing for the transitional provisions relating to holding over of payment of provisional tax on additional grounds for a particular year of assessment in a new schedule to Cap. 112 as in recent years, a new

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[7] Paragraph 184(c) of the Budget Speech.

drafting approach has been adopted in the Bill. Upon LSD's enquiries, the Administration explained that when considering the Inland Revenue (Amendment) Bill 2014, the Bills Committee suggested that the Government should consider introducing a standing provision in Cap. 112 to include any relevant entitlement to deductions exceeding a certain amount as a ground for application for holding over payment of provisional tax, instead of enacting transitional provisions each time to implement any adjustment in respect of a proposed deduction item. A new drafting approach has therefore been adopted in the Bill to introduce standing provisions to provide for additional grounds for holding over of payment of provisional tax.

**Commencement**

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

**Public Consultation**

15. According to paragraph 11 of the LegCo Brief, owing to the confidentiality of the Budget, no consultation was conducted specifically in respect of the proposals in the Bill. However, the Administration has formulated the proposals after taking into account views received from LegCo Members and other stakeholders during the Budget consultation process.

**Consultation with LegCo Panel**

16. According to the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on the Bill.

**Conclusion**

17. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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