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Legislative Council

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Paper for the House Committee Meeting on 25 May 2018

Legal Service Division Report on Inland Revenue (Amendment) (No. 4) Bill 2018

I. SUMMARY

1. **The Bill**

(a) The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the proposal in the 2018-2019 Budget to allow a new deduction for premiums paid in respect of hospital indemnity insurance policies certified by the Secretary for Food and Health to be in compliance with the Voluntary Health Insurance Scheme ("VHIS").

(b) Deductions would be allowed for premiums paid under VHIS policies covering the taxpayer or the taxpayer's specified relatives. The maximum annual allowable deduction for premiums paid would be $8,000 per insured person for the year of assessment commencing on 1 April 2019.

(c) The Bill also provides for transitional arrangements for the holding over of provisional salaries tax for the year of assessment 2019/20 in view of the new concessionary deduction.

2. **Public Consultation**

The public was consulted on VHIS from December 2014 to April 2015. According to the Administration, there was broad support for the concept and policy objectives of VHIS, but divergent views were expressed over the proposed establishment of the High Risk Pool.

3. **Consultation with LegCo Panel**

The Panel on Health Services was consulted on 19 March 2018. Members generally supported the legislative proposal but expressed certain concerns.

4. **Conclusion**

Our scrutiny of the Bill continues. In view of the concerns raised at the Panel meeting, Members may consider setting up a Bills Committee to examine the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 23 May 2018. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: FH CR 1/3822/13) issued by the Food and Health Bureau on 16 May 2018 for further details.

Object of the Bill

2. The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to introduce a new concessionary tax deduction for premiums paid under hospital indemnity insurance plans[1] certified by the Secretary for Food and Health to be in compliance with the Voluntary Health Insurance Scheme ("VHIS"), and to provide for related and transitional matters.

Background

3. In the 2018-2019 Budget Speech[2], the Financial Secretary proposed offering an annual tax deduction (up to $8,000 per insured person) to taxpayers who purchase certified hospital indemnity insurance policies ("VHIS policies") for themselves or their dependants. According to paragraphs 3 and 4 of the LegCo Brief, there are two types of VHIS policies, namely, standard plans and flexi plans, which offer basic protection and enhanced benefits (e.g. higher limits of indemnity) respectively. Both must meet the requirements set out in the Standard Plan Policy Template and Code of Practice for insurance companies under the ambit of VHIS published by the Food and Health Bureau on 1 March 2018.

Provisions of the Bill

Deductions for Health Insurance Premiums

4. Part 4A of Cap. 112 prescribes the concessionary deductions and the circumstances in which the deductions are allowable to persons chargeable to salaries tax and tax under personal assessment. Clause 8 seeks to add a new Division 6 to Part 4A to introduce a new deduction for premiums paid under VHIS policies:

(a) a taxpayer would be allowed deductions in respect of premiums paid by the taxpayer (or a cohabiting spouse) as the policy holder under VHIS policies which cover the taxpayer or specified relatives of the taxpayer as the insured persons (proposed section 26K(1));

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[1] According to the Administration, hospital indemnity insurance refers to an individual hospital indemnity insurance where the insured will be reimbursed or indemnified by the insurer for actual expenses incurred for medical treatments (in a hospital or an ambulatory setting).

[2] 2018-2019 Budget Speech, paragraph 152.

(b) a "specified relative" is defined to mean the taxpayer's spouse, eligible parent or grandparent[3], or unmarried child or sibling[4], or the spouse's eligible parent, grandparent, child or sibling (proposed section 26J);

(c) to be eligible for a deduction, an insured person (or the natural or adoptive parent of an insured person who is under 11 years of age) must be a holder of a Hong Kong identity card (proposed section 26K(1)(c));

(d) the maximum annual deduction allowable to a taxpayer for premiums paid would be $8,000 per insured person[5] for the year of assessment 2019/20 and thereafter (proposed section 26K(3) and Schedule 3E), although the Commissioner of Inland Revenue ("CIR") would have the power to determine the amount of premium eligible for deduction if CIR is of the opinion that the premiums paid for an insured person are not commensurate with that person's risk profile (proposed section 26K(4));

(e) the Bill proposes no cap on the number of specified relatives for whom a taxpayer could claim tax deductions in each year of assessment, the number of taxpayers who could claim deductions for premiums paid for the same insured person, or the number of policies per insured person[6];

(f) the proposed section 26L allows a married person and/or the person's spouse to claim tax deductions in respect of premiums paid for an insured person under a VHIS policy, so long as the deduction allowed to each of them for the insured person does not exceed $8,000 per year, and the total deduction allowed to them does not exceed the premiums paid; and

(g) if any premium paid under a VHIS policy is refunded by the insurer after the taxpayer claims a deduction, the taxpayer must notify CIR in writing within three months after the date of the refund so that an additional assessment of tax could be made in respect of the amount of the refund (proposed section 26M). Any person who without reasonable excuse fails to notify CIR of such a refund would commit an offence and be liable on conviction to a fine at level 3 (i.e. $10,000) and a further fine or additional tax treble the amount of tax undercharged due to the failure (proposed sections 80(2) and 82A as amended by clauses 9 and 10).

5. In defining "grandparent" and "parent", the proposed section 26J(4) uses notes to refer readers to the existing definitions of "grandparent or grandparent of his or her spouse" and "parent or parent of his or her spouse" in section 2(1) of Cap. 112. The proposed section 26I(2) further states that a note located in the text of the

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3 The parent or grandparent must be aged 55 or above, or be eligible for a disability allowance.

4 The child or sibling must be under 18 or, if over 18 but under 25, receive full time education at a university etc. or, if over 18, be incapacitated for work by reason of physical or mental disability.

5 At a marginal tax rate of 2% to 17%, the net saving in tax would range from $160 to $1,360.

6 See paragraphs 6 and 7 of the LegCo Brief.

proposed Division 6 is provided for information only and has no legislative effect. According to the Administration, the use of notes in legislation is a widely adopted plain language technique to help readers understand the legislation more quickly.[7]

Transitional provisions

6. Clauses 11 and 13 propose transitional arrangements for a taxpayer to apply to CIR to hold over the payment of the whole or part of provisional salaries tax for the year of assessment 2019/20 if a deduction in respect of premiums paid for an insured person under a VHIS policy is, or is likely to be, allowable to the taxpayer.

Commencement

7. The Bill, if passed, would come into operation on 1 April 2019 (clause 1(2)).

Public Consultation

8. According to paragraph 20 of the LegCo Brief, the public was consulted on VHIS from December 2014 to April 2015. According to the Administration, there was broad support for the concept and policy objectives of VHIS, but in light of the divergent views over the proposed establishment of the High Risk Pool ("HRP"), the Administration will launch VHIS first and re-examine the HRP proposal later.[8]

Consultation with LegCo Panel

9. As advised by the Clerk to the Panel on Health Services, the Panel was briefed on the legislative proposal on 19 March 2018. Members generally supported the proposal, but raised concerns on certain issues, including whether the proposed maximum annual deduction for premiums paid per insured person could provide adequate incentive to encourage people, particularly younger people, to take up VHIS policies so as to alleviate the long-term financing pressure on the public healthcare system, as well as the phased implementation of VHIS without the requirement of guaranteed acceptance, which had to be underpinned by a HRP.

Conclusion

10. Our scrutiny of the Bill continues. As the Bill seeks to offer a new tax deduction for VHIS policies, and in view of the concerns raised at the Panel meeting, Members may consider setting up a Bills Committee to examine the Bill in detail.

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7 *Drafting Legislation in Hong Kong – A Guide to Styles & Practices* (2012), 9.4.3.
8 See paragraph 21 of LC Paper No. CB(2)1022/17-18(03).