

立法會
Legislative Council

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Paper for the House Committee meeting on 26 April 2019

**Report of the Bills Committee on Inland Revenue (Amendment)
(Tax Concessions) Bill 2019**

Purpose

This paper reports on the deliberations of the Bills Committee on Inland Revenue (Amendment) (Tax Concessions) Bill 2019 ("the Bills Committee").

The Bill

2. To alleviate the burden of taxpayers, the 2019-2020 Budget proposes one-off reductions of salaries tax, tax under personal assessment and profits tax for year of assessment ("YA") 2018-2019 by 75%, subject to a ceiling of \$20,000 per case. The Inland Revenue (Amendment) (Tax Concessions) Bill 2019 ("the Bill"), gazetted on 8 March 2019 and introduced into the Legislative Council ("LegCo") on 20 March 2019, seeks mainly to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the above proposal.¹
3. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

The Bills Committee

4. The House Committee agreed at its meeting on 22 March 2019 to form a bills committee to study the Bill. The membership list of the Bills Committee is in the **Appendix**. Under the chairmanship of Mr Kenneth LEUNG, the Bills

¹ The Bill also seeks to correct a cross-reference in section 14(5) of the Ordinance; and to revise the way of computing the amount of profits tax that may be reduced under section 100(2) of the Ordinance.

Committee has held one meeting to discuss the Bill with the Administration. The Bills Committee has also invited written views from the public on the Bill.²

Deliberations of the Bills Committee

5. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

Proposed one-off tax reductions

6. The Bills Committee has noted that the proposed one-off tax reductions for YA 2018-2019 will benefit 1.91 million taxpayers of salaries tax and tax under personal assessment, and 145 000 tax-paying corporations and unincorporated businesses. The total revenue forgone amounts to \$18.9 billion (\$17 billion for salaries tax and tax under personal assessment; and \$1.9 billion for profits tax). The reductions will be reflected in taxpayers' final tax payable for YA 2018-2019.

7. Mr WONG Ting-kwong has conveyed the support from Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong for the proposed one-off tax reductions to help relieve the tax burden on taxpayers.

8. As a two-tiered profits tax rates regime has been introduced for corporations and unincorporated businesses starting from YA 2018-2019,³ Dr KWOK Ka-ki and Mr KWOK Wai-keung have queried the need to continue offering one-off reduction of profits tax to corporations and unincorporated businesses as entities chargeable to profits tax are making profits. In this connection, it seems inequitable that small and medium-sized enterprises ("SMEs"), in particular those which are not making profits at all or even sustaining losses, may/will not benefit from the proposed one-off profits tax reduction. Dr KWOK also observes that, similarly, individuals with reduced or no income and thus not chargeable to salaries tax and tax under personal assessment in YA 2018-2019 will not benefit from the proposed one-off tax

² By the deadline of the Bills Committee's invitation for written views from the public, one submission was received from the Liberal Party (LC Paper No. CB(1)854/18-19(03)).

³ Under the two-tiered profits tax rates regime, a lower tax rate of 8.25% (i.e. half of the previous single rate at 16.5%) is applicable to corporations and 7.5% (i.e. half of the previous single rate at 15%) to unincorporated businesses in relation to the first \$2 million of assessable profits.

reductions even though they should warrant more financial assistance than the better-off taxpayers.⁴

9. To address the above concerns, and based on the suggestions from Dr KWOK Ka-ki and the Chairman, the Bills Committee has explored with the Administration the following measures with a view to providing relief for individuals or corporations/unincorporated businesses who/which had paid salaries tax, tax under personal assessment and profits tax for the previous YAs but will not benefit from the proposed one-off tax reductions for YA 2018-2019:

- (a) one-off tax rebates calculated with reference to the amount (or average amount) of salaries tax/tax under personal assessment/profits tax paid for the previous YA(s), and subject to a ceiling of \$20,000 per case; and
- (b) allowing losses made in an accounting year to be carried backward for setting off against the assessable profits of tax-paying corporations and unincorporated businesses in the previous year(s).

10. The Administration has explained the difficulties to implement the above suggestions taking into account fiscal management principles and the narrow tax base of Hong Kong. Besides, given that reductions for salaries tax, tax under personal assessment and profits tax have been provided in every YA since YA 2011-2012, allowing one-off tax rebate calculated with reference to the amount (or average amount) of tax paid for the previous YA(s) may result in double deductions of tax for a YA, and thus distort the basis of tax assessment.

11. As regards the treatment of losses in relation to profits tax, the Administration has pointed out that the Inland Revenue Ordinance (Cap. 112) already allows losses of enterprises of a YA to be carried forward, without time

⁴ In connection with these concerns, the Bills Committee has sought information on (a) the number of taxpayers who had paid salaries tax and tax under personal assessment for previous YAs but will not benefit from the proposed one-off reductions of these taxes for YA 2018-2019 due to reduced or no income; and (b) the number of tax-paying corporations and unincorporated businesses which had paid profits tax for previous YAs but will not benefit from the proposed one-off reduction of this tax for YA 2018-2019 due to losses. The Administration has advised that since the tax returns for YA 2018-2019 for corporations/partnerships and individuals are not yet due for submission, it is unclear whether there will be a tax reduction in a particular case before the completion of the tax assessment. Moreover, the Inland Revenue Department does not compile statistics on the number of taxpayers who paid tax in a certain year but did not benefit from tax reductions in the subsequent year. For further details of the Administration's explanation, please refer to paragraphs 4 to 5 of the Administration's paper issued to the Bills Committee on 11 April 2019 vide LC Paper No. CB(1)854/18-19(02).

limit, for setting off against assessable profits derived in the subsequent YAs. Allowing losses made in a YA to be carried backward for setting off against the assessable profits in the back years may result in tax refund at any time and cause drastic and unpredictable fluctuations in tax revenue. The Administration considers that the current arrangement for enterprises to carry forward their losses without time limit to offset profits in future years can help enterprises to manage their losses and such arrangement remains attractive to investors.

12. The Administration has supplemented that resources have been allocated under the 2019-2020 Budget for measures to support local enterprises, including measures to help enterprises expand Hong Kong's market coverage or resolve liquidity problems under the SME Financing Guarantee Scheme. Moreover, the business registration fees for 2019-2020 are waived, and the scope and funding of the Dedicated Fund on Branding, Upgrading and Domestic Sales have been expanded. Various types of financial relief measures are also offered to needy families, such as providing extra allowance to recipients of the Working Family Allowance/Comprehensive Social Security Allowance. It should also be noted that various adjustments were made in the past few years in respect of salaries tax and tax under personal assessment to relieve the tax burden of taxpayers. For instance, the number of tax bands have been increased from four to five from YA 2018-2019 and the tax band widened from \$40,000 to \$50,000 during the past two YAs with adjusted marginal tax rates.⁵

2019-2020 Budget

13. Mr KWOK Wai-keung has stated that Members belonging to The Hong Kong Federation of Trade Unions consider that the concessionary measures offered in the 2019-2020 Budget are insufficient. Mr KWOK urges the Administration to introduce more such measures, or to adjust the current proposal under the Bill, with a view to providing more assistance to the needy. In his view, resources should be made available for additional concessionary measures if the actual budget surplus far exceeds the forecast surplus of \$58.7 billion for the financial year 2018-2019.

14. Dr KWOK Ka-ki and Mr KWOK Wai-keung have indicated that they may consider proposing amendments to the Bill after taking into account whether the Administration will adjust the current proposal of one-off tax reductions and/or introduce other concessionary measures to address their concerns raised at the Bills Committee meeting.

⁵ The tax bands have been widened from \$40,000 to \$45,000 from YA 2017-2018 and to \$50,000 from YA 2018-2019.

15. The Administration has advised that when formulating one-off relief or concessionary measures in the annual Budget, the Administration takes into account the overall economic situation, the Government's fiscal position, the needs of various sectors in the community and relevant policies in a holistic manner. In the 2019-2020 Budget, the proposed one-off tax reductions together with other one-off revenue reduction and expenditure measures amount to \$42.9 billion. This compares favourably with the revised estimate of consolidated surplus for 2018-2019 of \$58.7 billion.⁶ The Administration has indicated that it has no intention to make adjustments to the proposed one-off tax reductions for YA 2018-2019.

Amendments

16. The Bills Committee and the Administration will not propose amendments to the Bill.

Resumption of Second Reading debate on the Bill

17. The Bills Committee has no objection to the resumption of the Second Reading debate on the Bill at a future Council meeting.

Advice sought

18. Members are invited to note the Bills Committee's deliberations set out above.

Council Business Division 1
Legislative Council Secretariat
25 April 2019

⁶ According to the Administration, the provisional surplus for 2018-2019 will be announced in end April 2019.

**Bills Committee on Inland Revenue (Amendment)
(Tax Concessions) Bill 2019**

Membership list

Chairman Hon Kenneth LEUNG

Members Hon WONG Ting-kwong, SBS, JP
 Hon WU Chi-wai, MH
 Dr Hon KWOK Ka-ki
 Hon KWOK Wai-keung, JP

(Total: 5 members)

Clerk Ms Angel SHEK

Legal Adviser Miss Linda CHAN