

INFORMATION PAMPHLET



A BRIEF GUIDE TO TAXES
ADMINISTERED BY THE
INLAND REVENUE DEPARTMENT
2021 - 2022

**INLAND REVENUE DEPARTMENT
THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
OF THE PEOPLE'S REPUBLIC OF CHINA**

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INLAND REVENUE DEPARTMENT

This pamphlet is issued for the general information of persons unfamiliar with the tax legislation in Hong Kong. Being a brief guide, it can only cover the subject very broadly. For further details, reference may be made to our website (www.ird.gov.hk) or the relevant legislation.

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TAXATION IN HONG KONG

The Inland Revenue Ordinance (Chapter 112) (IRO) provides for the levying of three separate direct taxes for a year of assessment which ends on 31 March.

The taxes levied under the IRO are:

Profits Tax
Salaries Tax
Property Tax

PROFITS TAX

The Scope of the Charge

Persons, including corporations, partnerships, trustees and bodies of persons, carrying on any trade, profession or business in Hong Kong are chargeable to tax on all profits (excluding profits arising from the sale of capital assets) arising in or derived from Hong Kong from such trade, profession or business. There is no distinction between residents and non-residents. A resident may therefore derive profits from abroad without being charged to tax; conversely, a non-resident may be chargeable to tax on profits arising in Hong Kong. The questions of whether a business is carried on in Hong Kong and whether profits are derived from Hong Kong are largely questions of fact. However, some guidance on the principles applied can be found in cases which have been considered by the courts in Hong Kong and in other common law jurisdictions.

The following sums are deemed to be receipts arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong:

- (1) Sums received from the exhibition or use in Hong Kong of cinematograph or television film or tape, any sound recording or any advertising material connected with such film, tape or recording.
- (2) Sums received for the use, or the right to the use, in Hong Kong of any patent, design, trade mark, copyright material, *layout-design (topography) of an integrated circuit, *performer's right, *plant variety right, secret process or formula or other property or right of a similar nature. Sums received for the use, or the right to the use, of such property outside Hong Kong is also taxable, if the sum is allowable for deduction in the hands of the payers. (Items marked in asterisk (*) are applicable to sums paid or accrued on or after 29 June 2018.)
- (3) Sums received for the use, or the right to the use, outside Hong Kong of any intellectual property or know-how generated from any R&D activity in respect of which a deduction is allowable under section 16B in

ascertaining profits of the recipient.

- (4) Sums received by way of hire, rental or similar charges for the use of movable property in Hong Kong or the right to use movable property in Hong Kong.

The Profits Tax rates for corporations and unincorporated businesses are 16.5% and 15% respectively from the year of assessment 2008/09 onwards. With effect from the year of assessment 2018/19, the tax rates for the first \$2 million of assessable profits for corporations and unincorporated businesses eligible for two-tiered tax rates are lowered to 8.25% and 7.5% respectively.

Businesses subject to Profits Tax will enjoy a reduction of 75% of the final tax for the years of assessment 2015/16 to 2017/18, subject to the ceiling of \$20,000 per case for 2015/16 and 2016/17, and \$30,000 per case for 2017/18. For the years of assessment 2018/19 to 2020/21, the final Profits Tax will be reduced by 100%, subject to the ceiling of \$20,000 per case for 2018/19 and 2019/20, and \$10,000 per case for 2020/21.

The Basis of Assessment

Tax is charged on the assessable profits for a year of assessment. The assessable profits for a business which makes up annual accounts are calculated on the profits of the year of account ending in the year of assessment. In the year of assessment itself, a provisional tax is to be paid based on the profits assessed for the preceding year. The provisional tax paid is applied in the first instance against Profits Tax payable on the assessable profits for that year of assessment when assessed in the following year. Any excess is then applied against the provisional Profits Tax payable for that succeeding year.

On cessation of a business (subject to certain circumstances where special treatment would apply), the assessable profits are generally based on the profits for the period from the end of the basis period for the previous year of assessment to the date of cessation.

Non-Residents and Agents dealing with Non-Residents

A non-resident is chargeable to tax either directly or in the name of his agent in respect of all his profits arising in or derived from Hong Kong from any trade, profession or business carried on here, whether or not the agent has the receipt of the profits, and the tax may be recovered out of the assets of the non-resident or from the agent. The agent is required to retain from the assets sufficient money to pay the tax.

A non-resident who receives sums described in sub-paragraphs (1) and (2) on the preceding page is chargeable to tax in the name of any person in Hong Kong who paid or credited the sums to him; so is a non-resident who receives sums or derives profits directly or indirectly (including the payment of taxes to the Government) from the performance in Hong Kong of an activity by a non-resident entertainer or sportsman in his character as entertainer or sportsman. The person who pays or credits such sums is required at the time he makes the payment or credit to deduct from those sums an amount sufficient to meet the tax due.

Resident consignees are required to furnish quarterly returns to the Commissioner of Inland Revenue (Commissioner) showing the gross proceeds from sales on

behalf of their non-resident consignors and to pay to the Commissioner a sum equal to 1% of such proceeds, or such lesser sum as may have been agreed.

Where the true profits of a non-resident from a trade, profession or business carried on in Hong Kong cannot be readily ascertained, they may be computed on a fair percentage of the turnover in Hong Kong.

Subject to section 50AAK (i.e. Rule 2: Separate enterprises principle for attributing income or loss of non-Hong Kong resident person) of the IRO, where the accounts of a non-resident (other than a financial institution) whose head office is outside Hong Kong do not disclose the true profits of a Hong Kong permanent establishment, the profits of the branch in Hong Kong for tax purposes are taken to be the amount which bears to the taxpayer's total profits in the same proportion as his turnover in Hong Kong bears to his total turnover.

Special provisions are made in the IRO for non-resident ship owners and non-resident aircraft owners whose vessels call at locations within Hong Kong waters or whose aircraft land at a Hong Kong airport. Further details may be obtained from the Inland Revenue Department (IRD).

Exemptions and Deductions

Dividends received from a corporation which is subject to Hong Kong Profits Tax, as well as amounts already included in the assessable profits of other persons chargeable to Profits Tax (e.g. shares of profits from joint ventures) are excluded from the assessable profits of the recipient.

Generally, all expenses, to the extent to which they have been incurred by the taxpayer in the production of chargeable profits, are allowed as deductions including:

- (1) Interest on funds borrowed (provided certain conditions are satisfied) and rent of buildings or land occupied for the purpose of producing the profits.
- (2) Bad and doubtful debts (any recoveries to be treated as income when received).
- (3) Repairs of premises, plant, machinery or articles etc. used in producing the profits.
- (4) Expenditure for registration of a trade mark, design, patent or plant variety right (with effect from the year of assessment 2018/19) used in the production of profits.
- (5) Expenditure on the purchase of specified intellectual property rights for use in the production of chargeable profits. 100% deduction for the expenditure incurred on patent rights or rights to any know-how will be allowed in the year of purchase. 20% deduction for the expenditure incurred on copyrights, *performer's economic rights, *protected layout-design (topography) rights, *protected plant variety rights, registered designs or registered trade marks will be allowed for 5 consecutive years starting from the year of purchase. No deduction is,

however, allowable in respect of intellectual property rights purchased by a person wholly or partly from an associated or related person. (Items marked in asterisk (*) are applicable with effect from the year of assessment 2018/19)

- (6) Expenditure on research and development (R&D) including market, management and business research, design-related expenses and payments for technical education subject to certain rules. With effect from the year of assessment 2018/19, for qualifying expenditure incurred on certain domestic R&D, the first \$2 million is eligible for a 300% tax deduction and the amount beyond \$2 million is eligible for a 200% deduction.
- (7) An employer's annual contribution to a fund under a recognized occupational retirement scheme, or annual premium payment in respect of a contract of insurance under such a scheme, or regular contributions paid to a mandatory provident fund scheme, or any provision for these purposes, but limited in respect of any one employee to 15% of his total emoluments for the relevant period.
- (8) Any mandatory contributions paid by a sole proprietor or a partner in a partnership in respect of his liability to pay such contributions as a self-employed person under the Mandatory Provident Fund Schemes Ordinance (Chapter 485) not exceeding the maximum allowable deduction in a year of assessment, taking into account deductions already allowed under any other sections in the IRO. However, contributions made for spouses are not deductible. The maximum allowable deduction for each year of assessment is:

<u>Year of Assessment</u>	<u>Maximum Deduction</u>
	\$
2015/16 onwards	18,000

- (9) Approved charitable donations of an aggregate not less than \$100 made to charities with the restriction that such donation shall not exceed 35% of the adjusted assessable profits.

In computing the assessable profits, deduction is specifically prohibited in respect of the following:

- (1) Domestic or private expenses and any sums not expended for the purpose of producing the profits.
- (2) Any loss or withdrawal of capital, the cost of improvements and any expenditure of a capital nature.
- (3) Any sum recoverable under insurance or contract of indemnity.
- (4) Rent of or expenses relating to premises not occupied or used for the purpose of producing the profits.
- (5) Taxes payable under the IRO, except Salaries Tax paid in respect of employees' remuneration.

- (6) Any remuneration or interest on capital or loans payable to or, subject to section 16AA of the IRO, contributions made to a mandatory provident fund scheme in respect of the proprietor or the proprietor's spouse or, in case of a partnership, its partners or their spouses.

A transfer of certain allowable head office administrative expenses by means of a charge to a local branch or subsidiary in Hong Kong would be allowed as a deduction for Hong Kong tax purposes, to the extent to which they were incurred during the basis period for the year of assessment in the production of profits chargeable to tax.

Tax Incentives

There are tax incentives in specific areas where this may be necessary to enable us to compete in the region on a level playing field. They include:

- (1) Immediate writing off to be allowed for capital expenditure on plant and machinery specifically related to manufacturing, and on computer hardware and software.
- (2) Capital expenditure on refurbishment of business premises to be allowed to be written off over five years of assessment.
- (3) Tax concessions for gains derived from qualifying debt instruments. For certain debt instruments issued on or after 1 April 2018, tax exemption is allowed.
- (4) Concessionary tax rate on assessable profits derived from the business of reinsurance of offshore risks as a professional reinsurer and from the business of insurance of offshore risks as an authorized captive insurer. From the year of assessment 2018/19 onwards, concessionary tax rate is also applicable to their businesses in relation to onshore risks. With effect from 19 March 2021, the tax concession is extended to cover all general reinsurance business and selected general insurance business of direct insurers; and selected insurance brokerage business of licensed insurance broker companies.
- (5) Exemption from payment of tax on interest derived from any deposit placed in Hong Kong with an authorized institution (not applicable to interest received by or accrued to a financial institution).
- (6) Exemption from tax for offshore funds (non-resident individuals, partnerships, trustees of trust estates or corporations) in respect of profits derived from transactions in securities, futures contracts, foreign exchange contracts, etc. in Hong Kong, which are carried out by corporations and authorized financial institutions licensed or registered under the Securities and Futures Ordinance (Chapter 571). The non-resident entity must not carry on any other business in Hong Kong. Tax exemption for offshore funds is extended to offshore private equity funds (provided that certain conditions are satisfied) in respect of profits derived from specified transactions carried out from 1 April 2015 onwards. With effect from 1 April 2019, the exemption is extended to

all funds, irrespective of their structure and location of central management and control (subject to meeting certain conditions).

- (7) Accelerated deduction for capital expenditure on specified environmental protection facilities. For machinery or plant, 100% deduction will be allowed for the capital expenditure incurred. For installations forming part of a building or structure, 20% deduction will be allowed for each year in five consecutive years. With effect from the year of assessment 2018/19, 100% deduction will be allowed for capital expenditure incurred on the installations.
- (8) 100% deduction for capital expenditure on specified environment-friendly vehicles.
- (9) Concessionary tax rate on qualifying profits derived by a qualifying corporate treasury centre from specified lending transactions, or from specified corporate treasury services or transactions, and accrued and received on or after 1 April 2016.
- (10) Allowing a corporation carrying on in Hong Kong an intra-group financing business deduction of interest payable on or after 1 April 2016 on money borrowed from a non-Hong Kong associated corporation in the ordinary course of such business under specified conditions.
- (11) Concessionary tax rate on qualifying profits derived by a qualifying aircraft lessor from its qualifying aircraft leasing activity, or by a qualifying aircraft leasing manager from its qualifying aircraft leasing management activity, and accrued and received on or after 1 April 2017.
- (12) Exemption from tax on qualifying profits derived by a qualifying ship lessor from its qualifying ship leasing activity, and accrued and received on or after 1 April 2020.
- (13) Exemption from tax or concessionary tax rate on qualifying profits derived by a qualifying ship leasing manager from its qualifying ship leasing management activity, and accrued and received on or after 1 April 2020.
- (14) Exemption from tax on net eligible carried interest derived by a qualifying person from the provision of investment management services for a certified investment fund or a specified entity under specified conditions, and accrued or received on or after 1 April 2020.

Losses

Losses made in an accounting year are to be carried forward and set off against future profits of that trade but a corporation carrying on more than one trade may have losses in one trade offset against profits of the other. An individual who incurs a trading loss and who elects for Personal Assessment will have the loss allowed as a deduction from his total income.

For gains or losses which are subject to concessionary tax rate, there are special provisions on the adjustment of losses between concessionary trading activities and normal trading activities.

Depreciation Allowances

◆ **Industrial Buildings and Structures**

Special allowances are given in respect of capital expenditure incurred on the construction of industrial buildings and structures used in certain trades such as transport, dock, water and electricity undertakings, the manufacture, processing or storage of goods and trades carried on in mills and factories and in farming. An initial allowance of 20% of such capital expenditure is given in the year of expenditure and an annual allowance of 4% of the expenditure is given until the total expenditure is written off. When the asset is disposed of, a balancing allowance or balancing charge is made based on the difference between the disposal price and the written down value on disposal.

◆ **Commercial Buildings and Structures**

A building or structure which is not an industrial building or structure but is nevertheless used for the purposes of a trade, profession or business (other than as stock in trade) can qualify for an annual “commercial building allowance” of 4% of the capital expenditure incurred on the construction of such building or structure. When the asset is disposed of, a balancing allowance or balancing charge is made based on the difference between the disposal price and the written down value on disposal.

◆ **Plant and Machinery**

The following allowances on capital expenditure incurred on the provision of plant and machinery for the purpose of producing chargeable profits, except those assets referred to under “Tax Incentives” above, are deducted in arriving at the assessable profits:

- (1) An initial allowance at 60% on the cost of plant and machinery.
- (2) Annual allowances at rates prescribed by the Board of Inland Revenue on the reducing value of the asset. The rates are 10%, 20% and 30% according to the estimated working life of the particular category of plant or machinery. Items qualifying for the same rate of annual allowance are grouped under one “pool”.
- (3) A balancing allowance based on the unallowed expenditure compared with moneys received on disposal of the plant and machinery is available on cessation of a business to which there is no successor. A balancing charge can, however, arise whenever the disposal proceeds of one or more assets exceed the reducing value of the whole “pool” of assets to which the disposed items belong.

Books and Records

All persons carrying on business in Hong Kong are required to keep sufficient records, in English or Chinese, of their income and expenditure to enable their assessable profits to be readily ascertained. There are statutory requirements to record certain specified details of every business transaction. Business records must be retained for at least 7 years after the completion of the transactions to which they relate. Any person who fails to keep sufficient records can be subject to a fine of **\$100,000**.

SALARIES TAX

The Scope of the Charge

This tax is imposed on all income arising in or derived from Hong Kong from an office, employment or pension. In deciding whether income “arises in or is derived from Hong Kong”, it is necessary to establish where the employment, i.e. the source of income, is located. “Income arising in or derived from Hong Kong from any employment” includes all income derived from services rendered in Hong Kong, without in any way limiting the meaning of the expression. Special provisions in the IRO apply to crews of ships and aircrafts who visit Hong Kong for short spans of time and persons who have paid tax of substantially the same nature as Hong Kong Salaries Tax in any territory outside Hong Kong.

“Income from any office or employment” includes all forms of income and perquisites from an employer and others. Holiday journey benefits, award of shares and share option gain are chargeable income. For share option gains, the gain will be taxable when the option is exercised, assigned or released. Even if the share option is exercised after the employee has ceased the employment, the gain is still taxable.

Income also includes “rental value” in respect of a place of residence provided rent-free by the employer or an associated corporation of the employer (including cases of reimbursements of rent paid by employees directly to their landlords). If the place of residence provided is a flat or a serviced apartment, the “rental value” to be included in the assessment is 10% of the total income (after deducting outgoings (except expenses of self-education), depreciation, etc.) from the employer and the associated corporation of the employer. Taxpayer may elect to substitute the rental value at 10% with the rateable value. If the place of residence is in a hotel, hostel or boarding house, the rental value is 8% (accommodation with no more than 2 rooms) or 4% (accommodation with no more than one room) of the total income after appropriate deductions. If the employer provided a flat and specified that it was to be shared by more than one employee, the computation of the rental value is the same as that for a hotel, hostel or boarding house.

The Basis of Assessment

Liability to Salaries Tax is based on the chargeable income of the year of assessment, but the total amount of income for the year cannot be ascertained until the year is past. Hence, the IRD will first demand for payment of Provisional Salaries Tax during the year of assessment and then make adjustments in the following year. Any provisional tax paid for a year of assessment is applied firstly against the Salaries Tax payable on the income for that year and if there is excess, apply the excess against the following year’s provisional tax liability.

For example, a taxpayer who commenced employment on 1 July 2020 and earned income for 9 months during year of assessment 2020/21, will be charged provisional tax for 2021/22 and the estimated income will be grossed up to 12 months. If after receipt of the tax assessment this taxpayer’s net chargeable income (income - deductions - allowances) is reduced by more than 10% (for instance, this taxpayer ceased to be employed on 31 October 2021), this taxpayer may apply for the holdover of provisional tax not later than 28 days before the due date for payment of the provisional tax or 14 days after the issue date of the notice of payment of the provisional tax (whichever is later).

Under Salaries Tax, taxpayers may claim deductions and allowances. Entitlement to a new allowance is also a ground for applying holdover of tax.

Income of Married Couple

A married person is responsible for all aspects of his or her own Salaries Tax affairs including lodgement of returns and payment of tax assessed. However, if the total tax liability of a married couple under two separate assessments is greater than it would have otherwise been when their incomes are aggregated, they may elect to be jointly assessed.

Deductions Allowed

The following deductions are allowable:

- (1) Expenses wholly, exclusively and necessarily incurred in the production of assessable income, not being expenses of a private or domestic nature and capital expenditure.
- (2) Approved charitable donations paid to charities if the amount is not less than \$100 and with the limitation that such allowance shall not exceed 35% of the income after allowable expenses and depreciation allowances.
- (3) Expenses of self-education paid on fees (including tuition and examination fees) in connection with a “prescribed course of education”, or on fees in respect of an examination set by the specified education providers or trade, professional or business associations. The course and examination must be for gaining or maintaining qualification for use in any employment.

A “prescribed course of education” is one undertaken at specified education providers (list of providers is available at www.gov.hk/en/residents/taxes/salaries/allowances/deductions/selfeducation.htm), such as university, college, school, technical institution, training centre, institution specifically approved by the Commissioner or a training or development course provided by a trade, professional or business association or one accredited or recognized by specified professional bodies or institutions.

The amount deducted should exclude any amount that has been and will be reimbursed by the employer or any other persons. The maximum amount that can be deducted is as follows:

<u>Year of Assessment</u>	<u>Amount</u> \$
2015/16 and 2016/17	80,000
2017/18 onwards	100,000

- (4) Elderly residential care expenses paid by the person or his/her spouse to a residential care home in respect of the person's or his/her spouse's parent or grandparent. To be eligible for the deduction, the parent/grandparent must be aged 60 or above at any time in the year of assessment, or under 60 but is entitled to claim an allowance under the Government's Disability Allowance Scheme; and the residential care home must be situated in Hong Kong and is licensed or exempted from licensing under the Residential Care Homes (Elderly Persons) Ordinance (Chapter 459) or Residential Care Homes (Persons with Disabilities) Ordinance (Chapter 613), or is a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (Chapter 633) for which an exemption granted under section 128 of that Ordinance is in force.

Should the deduction be allowed to a person, he or any other person is not entitled to claim Dependent Parent/Grandparent Allowance and Additional Dependent Parent/Grandparent Allowance for the same parent/grandparent for the same year of assessment. The maximum amount that can be deducted for each parent or grandparent is as follows:

<u>Year of Assessment</u>	<u>Amount</u>
	\$
2015/16	80,000
2016/17 and 2017/18	92,000
2018/19 onwards	100,000

- (5) A taxpayer can claim deductions for "home loan interest" paid on a home loan for the acquisition of property unit. From the year of assessment 2012/13 onwards, the number of years of deduction is extended from 10 to 15 years of assessment and further extended to 20 years of assessment commencing from the year of assessment 2017/18, whether consecutively or not. That property must be situated in Hong Kong and must be used as his place of residence during the year of assessment.

In addition, a taxpayer can claim deductions for "home loan interest" paid for the acquisition of car parking space, regardless of whether the car parking space is valued together with the dwelling acquired as a single tenement under the Rating Ordinance (Chapter 116). However, the car parking space must be located in the same development of the dwelling in respect of which home loan interest is also claimed for the same year of assessment and the car parking space must be for use by the owner.

If a taxpayer is the sole owner of the dwelling/car parking space, the maximum amount deductible for each year is \$100,000.

If a taxpayer is a joint owner or tenant in common of the dwelling/car parking space, the maximum amount deductible for each year is to be apportioned amongst the joint tenants or tenants in common, respectively in accordance with the number of joint-tenants or his/her share of ownership in the dwelling/car parking space.

- (6) For mandatory contributions paid to a mandatory provident fund scheme (MPFS) by a taxpayer as an employee, the maximum deductible amount shall not exceed the amount prescribed in the IRO.
- (7) Contributions paid to a recognized occupational retirement scheme (RORS) are subject to the following restrictions:
 - (i) the amount deductible is the lesser of the actual amount contributed to the RORS or the amount of mandatory contribution that person would have been required to pay had that scheme been a MPFS; and
 - (ii) the maximum deductible amount prescribed in the IRO.

(The maximum deduction under items (6) and (7) is the same per individual irrespective of the number of employments and businesses.)

- (8) Qualifying premiums paid under Voluntary Health Insurance Scheme (VHIS) policy. To be eligible for the deduction, the insured person is either the taxpayer or his/her specified relative (i.e. spouse, child, taxpayer's or his/her spouse's brother, sister, parent or grandparent). The insured person is either a HKID card holder or if under the age of 11 and not a HKID card holder at any time during the year of assessment, his/her natural parent or adoptive parent must be a HKID card holder when he/she was born or adopted.

If the specified relative is the child/brother/sister, he/she must be under the age of 18; or aged 18 or more but under the age of 25 and receiving full-time education at a university, college, school or other similar educational establishment; or aged 18 or more but incapacitated for work by reason of physical or mental disability. If the specified relative is the parent/grandparent, he/she must be at the age of 55 or more, or eligible to claim an allowance under the Government's Disability Allowance Scheme during the year.

The deduction allowable to each taxpayer for each insured person should not exceed the qualifying premiums paid or the specified maximum deduction, whichever is lower. The specified maximum deduction for the year of assessment 2019/20 onwards is \$8,000.

- (9) Qualifying annuity premiums and tax deductible MPF voluntary contributions (TVC) paid are deductible if the following conditions are met:
 - (i) Qualifying annuity premiums: The policy holder of a Qualifying Deferred Annuity Policy must be the taxpayer and/or his/her spouse. The qualifying premiums must be paid by the taxpayer

and/or his/her spouse (not living apart). The annuitant of the policy must be the taxpayer and/or his/her spouse (being the spouse at any time during the year of assessment). The annuitant must be a HKID card holder during the relevant year of assessment.

- (ii) TVC: The MPF voluntary contributions must be paid into a TVC account defined under the Mandatory Provident Fund Schemes Ordinance. The taxpayer must be the TVC account holder.

If both qualifying annuity premiums and TVC are claimed in a year of assessment, TVC are to be firstly allowed and the qualifying annuity premiums are to be secondly allowed by the Department.

The deductible amount shall not exceed the aggregate of qualifying annuity premiums and TVC paid during the year of assessment or the specified maximum deduction, whichever is lower. The specified maximum deduction for the year of assessment 2019/20 onwards is \$60,000.

Tax Rates

Income after deductions and allowances (net chargeable income) is charged at the following rates:

<u>Year of Assessment</u>	<u>2015/16 and 2016/17</u>			<u>2017/18</u>		
	Net Chargeable Income \$	Rate	Tax \$	Net Chargeable Income \$	Rate	Tax \$
On the First	40,000	2%	800	45,000	2%	900
On the Next	<u>40,000</u> 80,000	7%	<u>2,800</u> 3,600	<u>45,000</u> 90,000	7%	<u>3,150</u> 4,050
On the Next	<u>40,000</u> 120,000	12%	<u>4,800</u> 8,400	<u>45,000</u> 135,000	12%	<u>5,400</u> 9,450
Remainder		17%			17%	

<u>Year of Assessment</u>	<u>2018/19 onwards</u>		
	Net Chargeable Income \$	Rate	Tax \$
On the First	50,000	2%	1,000
On the Next	<u>50,000</u> 100,000	6%	<u>3,000</u> 4,000
On the Next	<u>50,000</u> 150,000	10%	<u>5,000</u> 9,000
On the Next	<u>50,000</u> 200,000	14%	<u>7,000</u> 16,000
Remainder		17%	

Net Chargeable Income = Income – Deductions – Allowances (see the part on ALLOWANCES)

Tax charged shall not exceed the standard rate of tax applied to the net income without allowances, i.e. total assessable income less total deductions only:

<u>Year of Assessment</u>	<u>Standard Rate</u>
From 2015/16 onwards	15%

Tax Reduction

Tax payable is further reduced by the tax reduction, subject to a maximum.

<u>Year of Assessment</u>	<u>% of Tax Reduction</u>	<u>Ceiling Per Case</u> \$	<u>Applicable Tax Types</u>
2015/16 and 2016/17	75%	20,000	Salaries Tax, Profits Tax and tax under Personal Assessment
2017/18	75%	30,000	Salaries Tax, Profits Tax and tax under Personal Assessment
2018/19 and 2019/20	100%	20,000	Salaries Tax, Profits Tax and tax under Personal Assessment
2020/21	100%	10,000	Salaries Tax, Profits Tax and tax under Personal Assessment

Examples (for Year of Assessment 2020/21)

	<u>EXAMPLE A</u>		<u>EXAMPLE B</u>	
<u>Single Income Family</u>	Taxed at Progressive Rates		Taxed at Standard Rate	
	\$	\$	\$	\$
Employment income of husband		750,000		7,000,000
Income of wife		<u>Nil</u>		<u>Nil</u>
		750,000		7,000,000
<u>Less</u> : Husband's deductible outgoings		<u>3,000</u>		<u>4,000</u>
		747,000		6,996,000
<u>Add</u> : Value of quarters 10% on \$(750,000-3,000)	74,700		Nil	
Rent paid to employer	<u>5,000</u>	<u>69,700</u>	<u>Nil</u>	<u>Nil</u>
		816,700		6,996,000
<u>Less</u> : Approved charitable donations	4,000		5,000	
Mandatory contributions to MPFS	<u>18,000</u>	<u>22,000</u>	<u>18,000</u>	<u>23,000</u>
		794,700		6,973,000
<u>Less</u> : Married person's allowance	264,000		264,000	
Child allowances for 2 children	240,000		240,000	
Dependent parent allowance for 1 parent	<u>50,000</u>	<u>554,000</u>	<u>50,000</u>	<u>554,000</u>
Net chargeable income		<u>240,700</u>		<u>6,419,000</u>
Tax thereon at progressive rates	50,000@ 2% = 1,000 50,000@ 6% = 3,000 50,000@ 10% = 5,000 50,000@ 14% = 7,000 40,700@ 17% = <u>6,919</u> <u>22,919</u>		50,000@ 2% = 1,000 50,000@ 6% = 3,000 50,000@ 10% = 5,000 50,000@ 14% = 7,000 6,219,000 @ 17% = <u>1,057,230</u> <u>1,073,230</u>	
Tax thereon at standard rate		N.A.	6,973,000@15% =	<u>1,045,950</u>
Tax payable (Before Tax Reduction)		22,919	(Restricted to 15% on \$6,973,000)	1,045,950
<u>Less</u> : 100% Tax Reduction (Restricted to \$10,000)		<u>10,000</u>		<u>10,000</u>
Tax payable (After Tax Reduction)		<u>12,919</u>		<u>1,035,950</u>

Both Spouses Earning Income

EXAMPLE C

Separate Taxation applies:

	<u>Mr. A</u>	<u>Mrs. A</u>
	\$	\$
Assessable income after deductions	668,000	350,000
<u>Less : Allowances</u>	<u>372,000</u>	<u>132,000</u>
Net chargeable income	<u>296,000</u>	<u>218,000</u>
Tax payable (Before Tax Reduction)	32,320	19,060
<u>Less : 100% Tax Reduction (Restricted to \$10,000)</u>	<u>10,000</u>	<u>10,000</u>
Tax payable (After Tax Reduction)	<u>22,320</u>	<u>9,060</u>

- Note : (1) All Child Allowances for 2 children are claimed by Mr. A.
 (2) Mr. A and Mrs. A are to be assessed separately and served with separate notices of assessment.

EXAMPLE D

Joint Assessment may be elected if one spouse has income that is less than the Basic Allowance:

<u>Separate Taxation</u>			<u>Joint Assessment</u>	
	<u>Mr. B</u>	<u>Mrs. B</u>		\$
	\$	\$		
Assessable income after deductions	673,000	68,000	Mr. B's assessable income	673,000
<u>Less : Allowances</u>	<u>372,000</u>	<u>132,000</u>	Mrs. B's assessable income	<u>68,000</u>
Net chargeable income	<u>301,000</u>	<u>Nil</u>		<u>741,000</u>
Unabsorbed allowance	<u>Nil</u>	<u>64,000</u>	<u>Less : Allowances</u>	<u>504,000</u>
Tax payable	<u>33,170</u>	<u>Nil</u>	Aggregated net chargeable income	<u>237,000</u>
Total tax payable (Before Tax Reduction)	33,170		Total tax payable (Before Tax Reduction)	22,290
<u>Less : 100% Tax Reduction (Restricted to \$10,000)</u>	<u>10,000</u>		<u>Less : 100% Tax Reduction (Restricted to \$10,000)</u>	<u>10,000</u>
Total tax payable (After Tax Reduction)	<u>23,170</u>		Total tax payable (After Tax Reduction)	<u>12,290</u>

- Note : (1) All Child Allowances for 2 children are claimed by Mr. B.
 (2) The couple may elect to be jointly assessed and reduce their total tax payable from \$23,170 to \$12,290.

EXAMPLE E

An example in which one spouse earns a substantial amount of income:

(1) Child Allowances claimed by Mr. C

	<u>Mr. C</u>		<u>Mrs. C</u>	
	\$		\$	\$
Assessable income after deductions	4,508,000		448,000	
<u>Less : Allowances</u>	<u>372,000</u>		<u>132,000</u>	
Net chargeable income	<u>4,136,000</u>		<u>316,000</u>	
Tax payable (Before Tax Reduction)	676,200	(\$4,508,000 x 15% standard rate)	35,720	
<u>Less : 100% Tax Reduction (Restricted to \$10,000)</u>	<u>10,000</u>		<u>10,000</u>	
Total tax payable (After Tax Reduction)	<u>666,200</u>		<u>25,720</u>	
Total tax payable				<u>691,920</u>

(2) Child Allowances claimed by Mrs. C

	<u>Mr. C</u>		<u>Mrs. C</u>	
	\$		\$	\$
Assessable income after deductions	4,508,000		448,000	
<u>Less : Allowances</u>	<u>132,000</u>		<u>372,000</u>	
Net chargeable income	<u>4,376,000</u>		<u>76,000</u>	
Tax payable (Before Tax Reduction)	676,200	(\$4,508,000 x 15% standard rate)	2,560	
<u>Less : 100% Tax Reduction (Restricted to \$10,000)</u>	<u>10,000</u>		<u>2,560</u>	
Total tax payable (After Tax Reduction)	<u>666,200</u>		<u>0</u>	
Total tax payable				<u>666,200</u>

Note : Mr. C is chargeable to tax at standard rate. If Child Allowances are claimed by Mrs. C, the total amount of tax to be paid by Mr. and Mrs. C can be reduced from \$691,920 to \$666,200.

PROPERTY TAX

The Scope of the Charge

Property Tax is charged on the owners of land and/or buildings in Hong Kong and is computed at the standard rate on the net assessable value of the property. The standard rate is 15% from the year of assessment 2015/16 onwards.

The Basis of Assessment

The assessable value is computed by reference to the actual consideration payable to the owner in respect of the right of use of the property. Examples of consideration to be included in the assessable value are gross rent received or receivable, payment for the right of use of premises under licence, lump sum premium, service charges or management fees paid to the owner, and the owner's expenditure (e.g. repairs) borne by the tenant. If any consideration has become irrecoverable during the year of assessment, it could be deducted in the computation of the assessable value. The net assessable value is the assessable value, after deduction of rates agreed to be paid and paid by the owner (but not other payments, e.g. government rent and management fee), less a 20% statutory allowance for repairs and outgoings. However, any sums previously deducted as irrecoverable and then recovered should be treated as consideration in the year of recovery.

Properties for Owner's Business Use

A corporation letting property in Hong Kong is regarded as carrying on business in Hong Kong and should be subject to Profits Tax in respect of its property income. However, if the income from property chargeable to Property Tax is included in the taxpayer's profits for Profits Tax purposes, or if the property owned by the taxpayer is occupied by him/her for producing chargeable profits, the amount of Property Tax paid will be set off against the amount of Profits Tax payable. Any excess Property Tax paid will be refunded. As an alternative, corporations carrying on a trade, profession or business in Hong Kong, on application made in writing to the Commissioner, may be exempt from paying Property Tax which would otherwise be set off against their Profits Tax.

ALLOWANCES

If a taxpayer is assessed to Salaries Tax or has elected Personal Assessment, he/she, in addition to or as an alternative to a Basic Allowance, may claim the following allowances if appropriate:

◆ **Married Person's Allowance**

A taxpayer can claim Married Person's Allowance if he/she was, at any time during the year:

- (1) married and not living apart from his/her spouse; or living apart but had not divorced from his/her spouse and was maintaining or supporting him/her during

the relevant year of assessment, and

- (2) his/her spouse did not derive any income chargeable to Salaries Tax and has not elected for Personal Assessment separately for the year; or
- (3) the couple has elected for Joint Assessment under Salaries Tax and/or the couple has elected for Personal Assessment jointly.

◆ **Child Allowance**

Child Allowances are granted to taxpayers in respect of their unmarried child(ren) maintained by them. The child must be under the age of 18 during the year of assessment or if 18 and over but under 25 during the year of assessment and receiving full-time education at a university, college, school or other similar educational establishment. In addition, Child Allowance is granted for a child of or over the age of 18 who is incapacitated for work by reason of physical or mental disability. Under separate taxation, all Child Allowances must be claimed by either the taxpayer or his/her spouse.

An additional one-off Child Allowance will be granted in the year the child was born.

◆ **Dependent Brother or Dependent Sister Allowance**

A Dependent Brother or Dependent Sister Allowance is granted if an individual or his/her spouse maintains an unmarried brother/sister of his/her own or of his/her spouse and the person so maintained at any time in the year of assessment was:

- (1) under the age of 18 years;
- (2) of or over the age of 18 years but under the age of 25 years and was receiving full time education at a university, college, school or other similar educational establishment; or
- (3) of or over the age of 18 years and was, by reason of physical or mental disability, incapacitated for work.

A Dependent Brother/Sister Allowance may be granted for each brother/sister maintained. A brother/sister is only treated as maintained by the person or by the spouse of the person if, at any time during the year, the person or the spouse had sole or predominant care of the brother/sister. A Dependent Brother or Dependent Sister Allowance and a Child Allowance shall not both be given in any year of assessment in respect of the same dependent person.

◆ **Dependent Parent or Dependent Grandparent Allowance**

- (1) To be eligible for claiming the basic Dependent Parent/Dependent Grandparent Allowance, the taxpayer must have maintained at any time during the year a parent/grandparent who:

- (i) is ordinarily resident in Hong Kong. That means the dependent parent/grandparent must be habitually and normally resident in Hong Kong. To determine whether a dependant is ordinarily resident in Hong Kong, the IRD may consider objective factors including: (a) the number of days he/she stayed in Hong Kong, the frequency of his/her visit to Hong Kong and the length of each stay; (b) whether he/she has a permanent dwelling in Hong Kong; (c) whether he/she owns a property for residence outside Hong Kong; (d) whether he/she works or carries out a business in Hong Kong; (e) whether his/her relatives are mainly residing in Hong Kong;
 - (ii) is aged 55 years or more or eligible to claim an allowance under the Government's Disability Allowance Scheme; and
 - (iii) has either resided with the taxpayer, otherwise than for full valuable consideration, for a continuous period of 6 months or has received from him/her or his/her spouse not less than \$12,000 in money towards his/her maintenance.
- (2) An Additional Dependent Parent/Dependent Grandparent Allowance will be granted in respect of each dependent parent/grandparent actually living with the taxpayer otherwise than for full consideration continuously throughout the year.
- (3) Only one individual can be granted the allowance in respect of any one parent/grandparent (the dependant). In the event that more than one taxpayer wish to claim the allowance in respect of the same dependant for the same year of assessment, only one allowance will be given in respect of that dependant. The IRD will request the claimants to reach an agreement among themselves so as to decide which one of them is to have the allowance for that year.
- (4) For the purpose of Dependent Parent Allowance, the word "parent" means:
- (i) a parent of whose marriage the person or his/her spouse is a child;
 - (ii) a parent by whom the person or his/her spouse was legally adopted;
 - (iii) a step-parent of the person or his/her spouse;
 - (iv) the person's or his/her spouse's natural parent; or
 - (v) a parent of the person's deceased spouse.
- (5) For the purpose of Dependent Grandparent Allowance, the word "grandparent" means:
- (i) a natural grandfather or grandmother of the person or his/her spouse;
 - (ii) an adoptive grandparent of the person or his/her spouse;
 - (iii) a step grandparent of the person or his/her spouse; or
 - (iv) a grandparent of the person's deceased spouse.

◆ **Single Parent Allowance**

A Single Parent Allowance is granted if an individual had at any time during the year of assessment the sole or predominant care of a child in respect of whom the individual was entitled during the year of assessment to claim a Child Allowance. The allowance is not due if the individual was married and not living apart from his/her spouse at any time during the year or by reason only that he/she made contributions to the maintenance or education of the child during the year. No Single Parent Allowance is allowable in respect of any second or subsequent child.

◆ **Personal Disability Allowance**

Personal Disability Allowance is granted if an individual is eligible to claim an allowance under the Government's Disability Allowance Scheme during the year.

◆ **Disabled Dependant Allowance**

A Disabled Dependant Allowance is granted if an individual is maintaining a dependant who is eligible to claim an allowance under the Government's Disability Allowance Scheme. This allowance is granted in addition to the other allowances.

Various allowances for recent years

<u>Year of Assessment</u>	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>	<u>2018/19</u>	<u>2019/20</u>	<u>2020/21 onwards#</u>
	\$	\$	\$	\$	\$	\$
<u>Basic Allowance</u>	120,000	132,000	132,000	132,000	132,000	132,000
<u>Married Person's Allowance</u>	240,000	264,000	264,000	264,000	264,000	264,000
<u>Child Allowance</u>						
For the 1st to 9th child (For each qualified child)	100,000	100,000	100,000	120,000	120,000	120,000
For each child born during the year, the allowance is increased by	100,000	100,000	100,000	120,000	120,000	120,000
<u>Dependent Brother or Dependent Sister Allowance</u> (For each qualified brother/sister)	33,000	33,000	37,500	37,500	37,500	37,500
<u>Dependent Parent or Dependent Grandparent Allowance</u>						
For each qualified parent/grandparent aged 60 or above <u>or</u> is eligible to claim an allowance under the Government's Disability Allowance Scheme	40,000	46,000	46,000	50,000	50,000	50,000
For each qualified parent/grandparent aged 55 or above but below 60	20,000	23,000	23,000	25,000	25,000	25,000
<u>Additional Dependent Parent or Dependent Grandparent Allowance</u>						
For each qualified parent/grandparent aged 60 or above <u>or</u> is eligible to claim an allowance under the Government's Disability Allowance Scheme	40,000	46,000	46,000	50,000	50,000	50,000
For each qualified parent/grandparent aged 55 or above but below 60	20,000	23,000	23,000	25,000	25,000	25,000
<u>Single Parent Allowance</u>	120,000	132,000	132,000	132,000	132,000	132,000
<u>Personal Disability Allowance</u>	-	-	-	75,000	75,000	75,000
<u>Disabled Dependant Allowance</u> (For each qualified dependant)	66,000	66,000	75,000	75,000	75,000	75,000

until superseded

PERSONAL ASSESSMENT

What is Personal Assessment and how it may work to reduce tax liability

The IRO provides for the levying of three separate direct taxes for a year of assessment, viz, Profits Tax, Salaries Tax and Property Tax. Individuals ordinarily resided in Hong Kong may be able to reduce their tax liability by electing Personal Assessment. Under Personal Assessment, income from the above sources is aggregated and from this total, the following may be deducted:

- (1) interest payments on money borrowed for the acquisition of the letting properties on a property-by-property basis (i.e. the amount of interest deduction cannot exceed the net assessable value of each individual property let);
- (2) approved charitable donations (capped at 35% of the total income for computing tax under Personal Assessment);
- (3) elderly residential care expenses;
- (4) home loan interest;
- (5) mandatory contributions paid to MPFS as an employee;
- (6) contributions paid to a RORS;
- (7) qualifying premiums paid under Voluntary Health Insurance Scheme (VHIS) policy;
- (8) qualifying annuity premiums and tax deductible MPF voluntary contributions (TVC);
- (9) business losses incurred in the year of assessment;
- (10) losses brought forward from previous years under Personal Assessment; and
- (11) personal allowances (see ALLOWANCES).

Tax at progressive rates (same as those used for Salaries Tax) will then be imposed on the balance. For any tax already paid on the income included in the assessment, it can be deducted from the tax payable under Personal Assessment. If tax already paid exceeds the tax chargeable under Personal Assessment, a refund will be made.

Who may elect for Personal Assessment (for the year of assessment 2018/19 and subsequent years)

An individual may elect for Personal Assessment if:

- (1) he/she is 18 years of age or over, or under that age if both his/her parents are dead; and the individual is either ordinarily resident in Hong Kong or is a temporary resident; or
- (2) the individual is married and not living apart from his/her spouse, either one or both of them are eligible to make an election for Personal Assessment and both of them have income assessable under the IRO, they may jointly make an election for Personal Assessment; or
- (3) the individual is eligible to make an election for Personal Assessment and his/her spouse does not have income assessable under the IRO, the individual can elect for Personal Assessment himself/herself.
- (4) If the individual and his/her spouse are jointly assessed under Salaries Tax, the election for Personal Assessment should be made by both of them jointly.

For years of assessment up to 2017/18, if the individual is married, the election for Personal Assessment must be jointly made with the spouse. The individual and the spouse's income from all sources are aggregated to compute tax liability.

For the purpose of Personal Assessment:

An individual will be regarded as “ordinarily resident in Hong Kong” if he /she resides in Hong Kong voluntarily and for a settled purpose (such as for education, business, employment or family etc.) with sufficient degree of continuity. Such person should habitually and normally reside in Hong Kong apart from temporary or occasional absences of long or short duration, and is living in Hong Kong as an ordinary member of the community for all the purposes of his/her daily life. Please refer to item (1)(i) of Dependent Parent or Dependent Grandparent Allowance in the aforesaid paragraph for the explanation of “ordinarily resident in Hong Kong”;

A “temporary resident” means an individual who stays in Hong Kong for a period or a number of periods amounting to more than 180 days during the year of assessment in respect of which the election is made or for a period or periods amounting to more than 300 days in 2 consecutive years of assessment, one of which is the year of assessment in respect of which the election is made.

Treatment of a Married Couple who elected for Personal Assessment jointly

If a married person and his/her spouse jointly made an election for Personal Assessment, the total income of an individual, as appropriately reduced, will be aggregated with that of his/her spouse to arrive at the joint total income of the couple for assessment purposes. Normally, the tax payable on the Joint Assessment is apportioned between the married person and his/her spouse proportional to their respective reduced total income, and each will be issued with a Notice of Assessment. However, where an additional assessment

is issued, the whole of the tax payable under this assessment shall be charged on the individual assessed in respect of that income.

Time limit for electing Personal Assessment

Election for Personal Assessment must be made in writing not later than 2 years after the end of the year of assessment in respect of which the election is made or 1 month after an assessment of income or profits forming part of the individual's total income for such year of assessment becomes final and conclusive under section 70 of the IRO, whichever is later.

OBLIGATIONS OF TAXPAYERS (SALARIES, PROFITS AND PROPERTY TAX) UNDER THE INLAND REVENUE ORDINANCE

- ◆ **Section 5(2)(c)** - Where a corporation has been exempted from Property Tax and a change of ownership or of use or in any other circumstances affecting such exemption occurs, the corporation must notify the Commissioner in writing within 30 days after the event.
- ◆ **Section 51(2)** - Every person (whether an individual, a partnership or a corporation) who is chargeable to Salaries, Profits or Property Tax for any year of assessment and who has not received a Return Form is required to inform the Commissioner in writing that he is so chargeable within 4 months after the end of the basis period for the year of assessment concerned.
- ◆ **Section 51(6)** - Any person who ceases to carry on a trade, profession or business, or ceases to hold an office or employment, or ceases to be the owner of any land or buildings or land and buildings, of which tax is chargeable; or ceases to have a source of income in respect of which he is personally assessed must inform the Commissioner in writing within 1 month of such cessation.
- ◆ **Section 51(7)** - Any person chargeable to Salaries Tax, Profits Tax or Personal Assessment who is leaving Hong Kong for a period exceeding one month must notify the Commissioner in writing at least 1 month before he is due to leave. If he intends to return to Hong Kong, the approximate date of return must be given. This does not apply to persons who are required to leave frequently in the course of his employment, business or profession.
- ◆ **Section 51(8)** - Any person chargeable to Salaries Tax, Profits Tax, Personal Assessment or Property Tax who changes his address must notify the Commissioner in writing within 1 month. The IRO also provides that anything sent from the IRD is properly served if sent by post to a person's last known address. In other words, although a person fails to receive a notice from the IRD, he is deemed to have received it if it was sent by post to his last known address. The IRD usually sends all mails by ordinary post and it is important therefore that notification of change of address is promptly made.
- ◆ **Section 51C** - Every person carrying on a trade, profession or business in Hong Kong must keep sufficient records of his income and expenditure (either in English or in Chinese) to enable his assessable profits to be readily ascertained. There are statutory requirements to record certain specified details of every business transaction. Business records must be retained for at least 7 years after the completion of the transactions to which they relate. This does not apply to a corporation which has been dissolved.
- ◆ **Section 51D** - Owners of properties must keep sufficient records of rent received, such as lease agreements and duplicates of rent receipts to enable their tax liability to be readily ascertained. Such records should be retained for a period of not less than 7 years.

OBLIGATIONS OF EMPLOYERS UNDER THE INLAND REVENUE ORDINANCE

- ◆ **Section 52(2)** - An employer must furnish, within a reasonable time stated in the notice given by an assessor, a return containing the particulars of all persons employed by him who are likely to be chargeable to Salaries Tax, or any other person employed by him as named by the assessor.
- ◆ **Section 52(4)** - An employer is required to furnish in writing, within 3 months of engagement, particulars of any new employee who is likely to be chargeable to Salaries Tax.
- ◆ **Section 52(5)** - An employer who is about to cease to employ in Hong Kong any person who is likely to be chargeable to Salaries Tax must notify the Commissioner in writing at least 1 month before such person ceases to be employed.
- ◆ **Section 52(6)** - The employer of any person who is chargeable to Salaries Tax and is about to leave Hong Kong for more than 1 month shall notify the Commissioner in writing not later than 1 month before the expected date of departure of such person. This does not apply to an employee who is required in the course of his employment to leave Hong Kong at frequent intervals.
- ◆ **Section 52(7)** - An employer who is required by section 52(6) to give notice to the Commissioner the expected date of departure of an employee must not, except with the consent in writing of the Commissioner, make any payment of money or money's worth to the employee for a period of 1 month from the date of that notice.
- ◆ **For personnel** employed or treated to be employed under section 9A, or treated to be holding an office under the same section and chargeable to Salaries Tax, the employer is required to report their earnings even if these are made by way of a variable commission.
- ◆ **Local Freelance brokers, consultants, agents, artistes, writers, guides or sub-contractors etc.** holding no set office and not bound in a master-servant employment relationship are held to be carrying on business and to be chargeable to Profits Tax. Persons making payments to these individuals should report to the IRD details of remunerations paid to each of them by way of a form IR56M.
- ◆ Where payments are made to **non-resident entertainers/sportsmen** for any performance in Hong Kong, the sponsor or agent has to notify the IRD immediately when the non-resident arrives at Hong Kong by furnishing a form IR623 and withhold an amount from payments made to the non-resident sufficient to cover the amount of tax due in accordance with sections 20A and 20B. For **non-resident individuals** (other than entertainers / sportsmen) who are engaged to provide services or exercise profession in Hong Kong, not in the capacity as employees, the payer should submit form IR623P to report sums payable to them. The non-resident individuals may notify their chargeability by using the form IR623R.
- ◆ Employer must keep **payroll records** for its employees. Such records should be retained for a period of not less than 7 years.

Penalties may be imposed on taxpayers/employers who, without reasonable excuse, fail to comply with requirements of the IRO.

COMPLETION OF TAX RETURN

Tax Return - Individuals is to be used by an individual to report all his employment income, profits from sole proprietorship businesses and rental income from solely owned properties. Owners of jointly-owned properties who receive rental income are required to file Property Tax Returns. For partnerships and corporations, Profits Tax Returns should be filed. For the year of change from partnership to sole proprietorship business or vice versa, the profits for the whole year should be reported in the Profits Tax Return issued in the name of the partnership.

APPROVED CHARITABLE DONATIONS

“Approved charitable donation” means a donation of money to any charitable institution or trust of a public character, which is exempt from tax under section 88 of the IRO, or to the Government, for charitable purposes. A person who is chargeable to Salaries Tax or Profits Tax or who elects to be personally assessed can deduct approved charitable donations (provided that certain conditions are satisfied) from assessable income or assessable profits or total income for Personal Assessment.

DOUBLE TAXATION RELIEF AND EXCHANGE OF INFORMATION ARRANGEMENTS

For the avoidance of double taxation, the Hong Kong Special Administrative Region (HKSAR) has concluded comprehensive avoidance of double taxation arrangements respectively with the Mainland of China, the Macao Special Administrative Region and the following jurisdictions: Austria, Belarus, Belgium, Brunei, Cambodia, Canada, Czech, Estonia, Finland, France, Georgia, Guernsey, Hungary, India, Indonesia, Ireland, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Liechtenstein, Luxembourg, Malaysia, Malta, Mexico, Netherlands, New Zealand, Pakistan, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, South Africa, Spain, Switzerland, Thailand, United Arab Emirates, United Kingdom and Vietnam. The arrangements detail the allocation of taxing rights on different classes of income as well as special provisions on the implementation of the arrangements. In the case of the HKSAR, the arrangements cover Profits Tax, Salaries Tax and Property Tax, whether or not the tax is charged under Personal Assessment.

In addition, the HKSAR has concluded double taxation relief arrangements on airline and shipping income with other jurisdictions. Our legislation has also been amended to provide reciprocal exemption of taxation on shipping income with effect from 1 April 1998.

To enhance tax transparency and prevent tax evasion, the HKSAR rides on the exchange of information article in the abovementioned comprehensive avoidance of double taxation arrangements, the tax information exchange arrangements concluded by the HKSAR respectively with Denmark, Faroes, Greenland, Iceland, Norway, Sweden and the United States of America, as well as the Convention on Mutual Administrative Assistance in Tax Matters to

conduct exchange of information with other jurisdictions.

Please refer to our website (www.ird.gov.hk) for a complete list of the various double taxation relief and exchange of information arrangements of the HKSAR with the respective dates of signature and coming into effect.

COLLECTION OF TAXES

The amount of tax payable and the due date for payment are stipulated in each notice of assessment served on the taxpayers. Taxpayer should refer to the accompanying payment vouchers and pay promptly by the following means:

(1) Payment by electronic means

Payment can be made by phone, by ATM, or via the Internet. To pay tax by electronic means, taxpayers should enter the “Shroff Account Number for electronic payments” printed on their respective payment vouchers or payment slips and observe the daily transaction limit and payment instructions of the relevant banks.

The IRD’s PPS merchant code for payment by phone is 10. Taxpayers should dial 18011 for bill registration and 18031 for payment.

Payment by ATM card can be made at any HSBC/Hang Seng Bank ATM with the “Bill Payment” signage, or at any JETCO ATM with the “Jet Payment” logo.

To make payment via the Internet, taxpayers can visit our website (www.ird.gov.hk). Click on “Payment & Refund” under the “Tax Information - Others” menu. Select “Payment Methods” and then “Payment via Internet”, and follow the instructions/links under the heading.

To make payment via e-Cheque/e-Cashier Order, taxpayers can visit the “Pay e-Cheque” portal (www.payecheque.gov.hk). Select “Inland Revenue Department” and then the appropriate “Bill Type”, and enter the bill information and upload e-Cheque/e-Cashier Order.

To make payment via Faster Payment System (FPS), taxpayers can use the mobile banking app or e-wallet that supports Government FPS bill payments to pay the bills printed with FPS QR code.

(2) Payment by post

Payment by post should be made by cheque, not in cash, and should be accompanied by the payment voucher. Taxpayers should allow sufficient mailing time and pay sufficient postage. Post-dated cheques and underpaid mail will not be accepted.

The cheque should be crossed, and made payable to “The Government

of the Hong Kong Special Administrative Region” or “The Government of the HKSAR” and sent to the Commissioner of Inland Revenue, P.O. Box 28282, Gloucester Road Post Office, Hong Kong. The Shroff Account Number should be written on the back of the cheque.

(3) Payment in person

Payment in person can be made at the following collection points:

Post Office - Payment can be made at any post office by cheque, cash or EPS by presenting the payment voucher.

Convenience Store - For payment of Salaries Tax, Profits Tax, Property Tax and tax under Personal Assessment, cash payment up to \$5,000 per transaction is accepted at any 7-Eleven Convenience Store, Circle K Convenience Store and VanGO Convenience Store in Hong Kong by presenting payment voucher printed with barcode. Taxpayers should retain the receipt for payment record.

If tax is not fully paid by the specified due date, the total unpaid tax including the second installment, if any, will be deemed to be in default and immediately recoverable. A surcharge of **5%** will be added to the unpaid amount. If the outstanding sum continues to be in default for a period of **6** months after the due date, a further **10%** surcharge may be added to the total unpaid amount (including the **5%** surcharge).

If the tax in default (including surcharges) is payable by more than one person or by a partnership, then each of such persons or each partner in the partnership shall be deemed to be a defaulter. The Commissioner is empowered to take recovery actions which include the institution of civil action in the District Court, or the issue of a notice to a third party who owes or is about to pay money to the defaulting taxpayer requiring him to pay such moneys not exceeding the amount of tax in default to the IRD. A defaulter will be liable to the following costs and interest in addition to the outstanding tax due upon entry of judgment:

- (1) Court fee (\$630)
- (2) Basic costs (\$300)
- (3) Interest on the judgment sum from the date of commencement of proceedings to the date of full settlement. The judgment interest rate is available for reference on the IRD homepage on the Internet. The rate with effect from **1 April 2020** is **8%**.

To build up funds for tax payment, taxpayers are encouraged to join our Electronic Tax Reserve Certificates Scheme. They can purchase Tax Reserve Certificates (TRCs) monthly by bank autopay or at any time by telephone, automated teller machine, via the Internet, by post or in person at the post office. The Scheme offers “Auto Tax Payment Service” which ensures on-time tax payment. The TRCs held in the account will be automatically redeemed, on a First-In-First-Out basis, for payment of the holder’s tax.

MISCELLANEOUS LEVIES

STAMP DUTY

Stamp duty is chargeable on certain documents specified in the First Schedule to the Stamp Duty Ordinance which imposes fixed duty on some documents and an ad valorem stamp duty on others. Fixed duties vary from \$3 to \$100 whereas ad valorem stamp duties range from 0.13% to 15%.

In the case of transfers of immovable property in Hong Kong, ad valorem stamp duty (either at Scale 1 rates or Scale 2 rates) is chargeable based on the sale price or the market value of the property (whichever is higher) at the following rates:

Rate at Part 1 of Scale 1: 15%

Rates at Part 2 of Scale 1

- (1) 1.5% where sale price does not exceed \$2,000,000;
- (2) 3% where the sale price exceeds \$2,000,000 but does not exceed \$3,000,000;
- (3) 4.5% where the sale price exceeds \$3,000,000 but does not exceed \$4,000,000;
- (4) 6% where the sale price exceeds \$4,000,000 but does not exceed \$6,000,000;
- (5) 7.5% where the sale price exceeds \$6,000,000 but does not exceed \$20,000,000; or
- (6) 8.5% where the sale price exceeds \$20,000,000.

Rates at Scale 2

- (1) \$100 where sale price does not exceed \$2,000,000;
- (2) 1.5% where the sale price exceeds \$2,000,000 but does not exceed \$3,000,000;
- (3) 2.25% where the sale price exceeds \$3,000,000 but does not exceed \$4,000,000;
- (4) 3% where the sale price exceeds \$4,000,000 but does not exceed \$6,000,000;
- (5) 3.75% where the sale price exceeds \$6,000,000 but does not exceed \$20,000,000; or
- (6) 4.25% where the sale price exceeds \$20,000,000.

There is provision for marginal relief at the commencement of the higher rates. With effect from 31 January 1992, ad valorem stamp duty at the same rates as conveyances on sale of immovable property is chargeable on agreements for the sale and the purchase of residential property. With effect from 23 February 2013, ad valorem stamp duty is also chargeable on agreements for sale and purchase of non-residential property. After the agreement has been so stamped, the related conveyance will be chargeable with a fixed stamp duty of \$100 only. Unless specifically exempted or otherwise provided, agreement for sale or conveyance on sale executed on or after 23 February 2013 for acquisition or transfer of immovable property is chargeable with ad valorem stamp duty at Scale 1 rates. Any instruments executed on or after 5 November 2016 for the acquisition of residential property, unless specifically exempted or provided otherwise, will be subject to rate at Part 1 of Scale 1, i.e. a flat rate of 15%. Rates at Part 2 of Scale 1 apply to instruments of non-residential property executed during the period between 5 November 2016 and 25 November 2020. With effect from 26 November 2020, instruments of non-residential property are subject to rates at Scale 2.

For residential property disposed of within 24 months (if the property was acquired on or after 20 November 2010 but before 27 October 2012) or 36 months (if the property was acquired on or after 27 October 2012), Special Stamp Duty will be imposed on top of the ad valorem stamp duty. The amount of Special Stamp Duty is calculated by reference to the stated consideration or the market value of the disposed property (whichever is higher), at the following regressive rates for different holding periods by the vendor or transferor before the resale or disposal:

Holding Period	The property was acquired between 20 November 2010 and 26 October 2012	The property was acquired on or after 27 October 2012
6 months or less	15%	20%
More than 6 months but for 12 months or less	10%	15%
More than 12 months but for 24 months or less	5%	10%
More than 24 months but for 36 months or less	-	

With effect from 27 October 2012, unless specifically exempted or otherwise provided, Buyer's Stamp Duty is payable on an agreement for sale or a conveyance on sale executed for the acquisition of any residential property on or after 27 October 2012. Buyer's Stamp Duty is charged at 15% on the stated consideration or the market value of the property (whichever is higher).

Leases granted in consideration of premium only attract ad valorem stamp duty at Scale 2 rates as for conveyances of immovable property. For leases granted in consideration of both premium and rent, the premium attracts ad valorem stamp duty of 4.25% while the rate of stamp duty on rents varies with the period of the lease (from 0.25% to 1% of the annual rent).

Sale and purchase of Hong Kong stock require the preparation of contract notes on which buyers and sellers have each to pay ad valorem stamp duty at the rate of 0.13% of the consideration with effect from 1 August 2021.

In all cases, the Collector of Stamp Revenue is empowered to charge stamp duty based on the market value of the property conveyed or stock transferred if he is of the opinion that the consideration is inadequate.

ESTATE DUTY

The Revenue (Abolition of Estate Duty) Ordinance 2005 has come into operation from 11 February 2006. No estate duty is payable in respect of estates of persons passing away on or after that date. For deaths occurring on or after 15 July 2005 but before 11 February 2006, a nominal duty of \$100 is imposed if the assessed value exceeds \$7,500,000.

For persons who passed away on or after 1 April 1998 but before 15 July 2005, estates valued at \$7,500,000 or below are exempt from duty. The rates of duty are 5% for estates over \$7,500,000 in value but not exceeding \$9,000,000; 10% for estates over \$9,000,000 in value but not exceeding \$10,500,000; and 15% for estates over \$10,500,000 in value. There is a marginal relief at the commencement of each higher band. Assets situated outside Hong Kong are not subject to duty. In some countries, double taxation relief is granted for estate duty paid in Hong Kong.

BETTING DUTY

Betting duty on local bets on local horse races is charged on the net stake receipts at progressive rates from 72.5% to 75%, which are arrived at after deducting the total dividends and rebates on bets (to bettors making losing bets at or over \$10,000) from the total bets. Non-local bets on local races are not chargeable to betting duty. In respect of the local bets on non-local horse races, betting duty is charged at the standard rate of 72.5% on the net stake receipts. The net stake receipts are arrived at after deducting the total dividends and rebates as well as the total extra amount from the total bets. The extra amount means the amount payable by the horse race betting conductor to overseas operators in relation to the conduct of authorized betting on each bet type in a non-local horse race in excess of 1.5% of the turnover on that bet type. Betting duty is also charged at 30% on contributions or subscriptions to authorized cash sweeps and at 25% on bets made on lotteries (Mark-six) conducted by the authorized company. For betting on football matches, betting duty is charged at 50% on the net stake receipts from the conduct of authorized betting on football matches by the authorized company.

BUSINESS REGISTRATION

Except for few exempt businesses and companies registered under the one-stop company and business registration service, every person carrying on business in Hong Kong regardless of the mode of business must register the business and pay the required fee and levy within one month of the commencement of the business. For businesses carried on through the Internet, the IRD would look beyond the server and examine the extent of the other business operations in Hong Kong. Such businesses are required to be registered if the daily business operations are carried out in Hong Kong, notwithstanding that the servers are located outside Hong Kong. The IRD will not accept any applications for registration of businesses which have never existed or have yet to commence operation. Registered businesses may renew their registration certificates either annually or every 3 years. Please visit our website (www.ird.gov.hk) or call our information hotline 187 8088 for details of the total amount payable under a certificate.

A company incorporated or required to be registered as a non-Hong Kong company under the Companies Ordinance (Chapter 622), whether actually in operation or not, is required to be registered for business registration and pay the required fee and levy. Under the one-stop company and business registration service jointly implemented by the Companies Registry and the IRD, any person who submits an incorporation form of a local company (Form NNC1 or NNC1G) or an application form for registration of a non-Hong Kong company (Form NN1) at the Companies Registry will be deemed to have made a business registration application at the same time. Under this one-stop service, companies are only required to lodge one single application for both company and business registration. Upon the approval of the application, the Companies Registry will issue a Certificate of Incorporation or Registration, as the case may be, together with a Business Registration Certificate to the applicant in one go.

Business Registration Certificate is not a licence to trade. Apart from business registration, the applicant may need to apply for other types of licences or obtain the recognized professional qualifications for operating certain kinds of business. The issue of Business Registration Certificate or Branch Registration Certificate in respect of any business does not imply that the requirements of any law in relation to such business have been complied with.

The valid Business Registration Certificate must be displayed in a conspicuous place at the address where the business is carried on and should be produced for official inspection by the IRD's tax inspectors on demand.

Any change in the business particulars or cessation of a business must be notified in writing to the Business Registration Office (BRO) of the IRD within 1 month of the change or the cessation. For a local limited company or a non-Hong Kong company which has changed its company or corporate name under the Companies Ordinance, the Companies Registry will notify BRO of the change after the "Certificate of Change of Name" is issued. If the business name is changed, the company must notify BRO separately.

The Companies Registry and the IRD have jointly implemented an optional electronic one-stop notification service at the e-Registry portal (www.eregistry.gov.hk) of the Companies Registry. By using this electronic service, a company which reports a change of registered office address in the electronic Form NR1 may request the Companies Registry to notify BRO on its behalf that its business address as registered under the Business Registration Ordinance has changed to its new registered office address with effect from the effective date of change as stated in the electronic Form NR1. If the company does not opt to use this electronic service, it must notify BRO of any change in the business address in writing, other than notifying the Companies Registry of any change in the registered office address.

Except for companies incorporated and non-Hong Kong companies required to be registered under the Companies Ordinance, open-ended fund companies, limited partnership funds and other business operators carrying on 2 or more businesses, the business operator of a small business with average monthly sales or receipts below a specified limit (\$10,000 for a business mainly deriving profits from the sale of services or \$30,000 for other businesses) could apply for exemption from payment of the business registration fee and levy.

For details, please visit our website (www.ird.gov.hk) or call our information hotline 187 8088.

HOTEL ACCOMMODATION TAX

This tax is imposed on hotel and guest house accommodation and is levied on the accommodation charges paid by guests. Effective from 1 July 2008, the Government has waived the charge of the Hotel Accommodation Tax. The rate of tax is reduced to 0% (the tax rate was at 3% for the period up to 30 June 2008) on all accommodation charges paid by the guests.

EVASION OF TAX - A CRIMINAL OFFENCE

CONSEQUENCE OF FILING INCORRECT RETURN

All tax returns contain a declaration to the effect that the information returned therein is true, correct and complete. Understatement/omission of profits or income or submission of false information constitutes an offence.

Submission of an incorrect tax return without reasonable excuse is an offence carrying a fine of \$10,000 and a further fine of treble the amount of tax which has been undercharged. The imposition of penalty may, however, be dealt with administratively by the Commissioner.

Submission of an incorrect tax return wilfully with intent to evade tax is a serious offence. On conviction, the offence is subject to a fine of \$50,000, a further fine of treble the amount of the tax undercharged and 3-year imprisonment. The Court of Appeal of the High Court has warned that a defendant, once convicted, may be liable to immediate custodial sentence.

ADVANCE RULINGS

A person may apply to the Commissioner, subject to payments and certain regulations, for a ruling on how any provision of the IRO applies to him or the arrangement specified in the application.

FURTHER INFORMATION

If you need more information, please call our information hotline 187 8088, e-mail to taxinfo@ird.gov.hk or visit our website (www.ird.gov.hk).

INLAND REVENUE DEPARTMENT
The Government of the Hong Kong Special Administrative Region
of the People's Republic of China
Revenue Tower
5 Gloucester Road
Wan Chai
Hong Kong

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