



Related Tax Rules of Guide to Tax Return – Individuals

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Salaries Tax

Part 4 Salaries Tax is charged for each year of assessment on individuals in respect of income arising in or derived from Hong Kong which is received or receivable during the year, irrespective of the location of payment.

“Income” includes:-

- Income from an office, employment (on a full-time, part-time or casual basis) or pension from a former employer.
- Income in respect of services rendered in Hong Kong relating to an office or employment of profit.
- Remuneration paid under certain service company arrangements which come within the scope of section 9A of the Inland Revenue Ordinance.

4.1 (1) (a) Types of income to be included

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- Salary/wages;
- leave pay;
- commission (including "Dim Yung");
- back pay, terminal awards and gratuities;
- perquisites in cash or of such nature that either they may be converted into cash or are money's worth (e.g. gift of motor car, award of shares);
- education benefits which are payments made directly or indirectly by your employer for the education of your children;
- bonus irrespective of when it was paid if the terms of your employment entitled you to such payment during the year. Bonus that has been included in previous returns should be excluded;
- cash allowances for food, travelling, servants, housing, cost of living, etc.;
- share option gain; (see item (c) below)
- any grant of share or stock awards arising from the office/employment constitutes taxable perquisites and should usually be assessed to tax in the year when they are granted;
- lump sum payments; (see item (d) below)
- income from an overseas company in connection with your employment/assignment in Hong Kong or services rendered by you in Hong Kong, whether payment was made in Hong Kong or overseas;
- Salaries Tax paid by your employer;
- payment or reimbursement by your employer of personal expenses contracted and incurred by you;
- tips whether derived from your employer or any other person(s);
- holiday journey benefits by reference to the amount paid by the employer (as from 1/4/2003);



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- certain payments from retirement schemes:
 - **Occupational Retirement Scheme**
 - (i) **unrecognized scheme** : so much of any amount received as represents the employer's contributions;
 - (ii) **recognized scheme ("ORSO scheme")** : so much of any amount received by reason other than termination of service, death, incapacity or retirement as represents the employer's contributions or in case of termination of service, so much of any excess of the amount received over the proportionate benefit as defined in section 8(4) and (5) of the Inland Revenue Ordinance as represents the employer's contributions;
 - (iii) any payment received pursuant to a judgment given under section 57(3)(b) of the Occupational Retirement Schemes Ordinance that is attributable to the employer's contributions. The aforesaid payment is awarded by the court in respect of the shortfall between the employee's vested benefits and the amount received by him/her upon the winding up of the scheme.

(Your employer should be able to confirm whether the scheme is an ORSO scheme).

- **Mandatory Provident Fund scheme ("MPF scheme")**
 - (i) so much of any amount received by reason other than termination of service, death, incapacity or retirement as represents the employer's voluntary contributions; or
 - (ii) in case of termination of service, so much of any excess of the amount received or taken to have received[#] over the proportionate benefit as defined in section 8(4) and (5) of the Inland Revenue Ordinance as represents the employer's voluntary contributions.
- [#] Upon termination of service, if the employee chooses to retain his accrued benefits as represents the employer's voluntary contribution within the MPF scheme or transfer them to another MPF scheme, section 8(9) of the Inland Revenue Ordinance deems the employee to have received the accrued benefits at the date of termination of service. Accordingly the excess amount over the proportionate benefit should be reported.



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Example

An employee terminated his service after having worked for the employer for 7 years. A sum of \$80,000 representing employer's contributions/voluntary contributions was received by him from the ORSO scheme/MPF scheme. Total employer's contributions/voluntary contributions were \$100,000.

$$\begin{aligned}\text{Proportionate benefit} &= \$100,000 \times \frac{7 \times 12 \text{ months}}{120 \text{ months}} \\ &= \$70,000\end{aligned}$$

$$\begin{aligned}\text{Employee's taxable benefit} &= \text{sum received} - \text{proportionate benefit} \\ &= \$80,000 - \$70,000 \\ &= \underline{\underline{\$10,000}}\end{aligned}$$

-  Related information under the Department's web site — [A guide to Salaries Tax \(1\)](http://www.ird.gov.hk/eng/pdf/pam39e.pdf)
(www.ird.gov.hk/eng/pdf/pam39e.pdf) — [A guide to Salaries Tax \(2\)](http://www.ird.gov.hk/eng/pdf/pam40e.pdf)
(www.ird.gov.hk/eng/pdf/pam40e.pdf) — [About Termination Payments](http://www.ird.gov.hk/eng/tax/ere_ter.htm)
(www.ird.gov.hk/eng/tax/ere_ter.htm) — [Departmental Interpretation & Practice Notes No. 10- The charge to salaries tax](http://www.ird.gov.hk/eng/pdf/e_dipn10.pdf)
(www.ird.gov.hk/eng/pdf/e_dipn10.pdf) — [Departmental Interpretation & Practice Notes No. 16- Taxation of fringe benefits](http://www.ird.gov.hk/eng/pdf/e_dipn16.pdf)
(www.ird.gov.hk/eng/pdf/e_dipn16.pdf) — [Departmental Interpretation & Practice Notes No. 41- Taxation of holiday journey benefits](http://www.ird.gov.hk/eng/pdf/e_dipn41.pdf)
(www.ird.gov.hk/eng/pdf/e_dipn41.pdf)

(b) Types of income to be excluded (need not be reported in the return)

- payment in lieu of notice;
- jury fees;
- severance payments and long service payments:
 - severance payments/long service payments that are required to be paid under the Employment Ordinance are not assessable to Salaries Tax. If you have been paid gratuities or retirement benefits, the severance payment/long service payment to be paid under the Employment Ordinance is to be reduced by the aforesaid amounts. You should only exclude the reduced amount. Exemption will not be extended to that part of the gratuities and retirement benefits used to offset the severance payment/long service payment. The whole amount of gratuities and retirement benefits should be reported in the usual manner.



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4.1 (2)(i) (c) What is a share option gain ?

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A share option gain refers to a gain realized by the exercise of, or by the assignment or release of, a right to acquire shares or stock in a corporation, such right being obtained by a director or employee of that or any other corporation by virtue of his office or employment. Full particulars should be supplied on a separate sheet showing:

- the number of rights exercised, assigned or released;
- the date on which these rights were exercised, assigned or released;
- if exercised, the total open market value of the shares or stock at the time of exercise. If assigned or released, the amount or value of consideration received for the assignment or release of the rights;
- the amount or value of the consideration given for the shares or stock, or for the grant of the rights, or for both.

☞ Related information under the Department's web site — [How to tax benefits related to stock awards and share options](http://www.ird.gov.hk/eng/pdf/pam47e.pdf) (www.ird.gov.hk/eng/pdf/pam47e.pdf)

4.1 (2)(ii) (d) What are lump sum payments ?

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Lump sum payments are:

- sums paid upon retirement or termination of any office or employment or any contract of employment; or
- deferred pay or arrears of pay resulting from a salary or wages award.

They are chargeable to tax with the exceptions of those items listed in item (b) above under the heading "Types of income to be excluded".

☞ Related information under the Department's web site — [About Termination Payments](http://www.ird.gov.hk/eng/tax/ere_ter.htm) (www.ird.gov.hk/eng/tax/ere_ter.htm)

4.1 (3) (e) Relating back of lump sum payment

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You are entitled, upon application in writing, to have any lump sum payment referred to in item (d) above related back to the period in respect of which the payment was made. If this period exceeds three years, the payment shall be spread evenly over the three years ending on the date on which you were entitled to claim payment of the lump sum or on the last day of employment, whichever is the earlier. Depending on the circumstances, relating back of lump sum payments may reduce your overall tax liability.



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4.1 (3) (f) Claiming full or partial exemption of income

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A claim for full or partial exemption of income may be made on the following grounds:-

- no service was rendered in Hong Kong;
- services were rendered in Hong Kong during visits not exceeding a total of 60 days during the year;
- only income from services rendered in Hong Kong should be assessed; or
- part of the income has been subject to tax in another jurisdiction.

 Related information under the Department's web site — [Application for Full/Partial Exemption of Income under Salaries Tax](http://www.ird.gov.hk/eng/tax/ind_exemp.htm)
(www.ird.gov.hk/eng/tax/ind_exemp.htm)

4.2 (g) Place of residence provided by each employer or associated corporation during the year

- If your employer or an associated corporation provided you with a place of residence, including places where all or part of the rent paid by you has been refunded, the value of such places of residence will have to be included in your assessable income.
- The term "associated corporation" means a corporation over which the employer has control or if the employer is a corporation, a corporation which has control over the employer, or a corporation which is under the control of the same person as is the employer. Control means the power of a person, either by means of a holding of shares or by means of powers granted, to conduct the affairs of the corporation in accordance with his wishes.

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(h) Value of places of residence provided

- It is the rental value or the excess of rental value over the rent, if any, paid by you.
- Rental value is calculated as a percentage of the total income from the employer and the associated corporation which provided the residence after deductions of the outgoings and expenses depending on the nature of the residence provided:

<u>Nature of Residence</u>	<u>%</u>
House or flat, including serviced apartment	10
2 rooms in a hotel, hostel or boarding house	8
1 room in a hotel, hostel or boarding house	4

If your 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.




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- Rent paid by you includes:
 - **rent paid to landlord** (if you are responsible for the payment of rates and management fees, which are accepted by your employer as part of the cost of providing the accommodation for the purpose of refund of rent, you may also include these as rent paid by you.)
 - **rent paid to employer or associated corporation** in consideration of provision of place of residence (including the case of rent refund.)
- If the place of residence is not in a hotel, hostel or boarding house, you may elect to include the rateable value of the property instead of the rental value. Rateable value in general refers to the rateable value included in the valuation list prepared under the Rating Ordinance.


 Related information under the Department's web site — [How to tax the provision of a place of residence to the employee](http://www.ird.gov.hk/eng/pdf/pam44e.pdf)
(www.ird.gov.hk/eng/pdf/pam44e.pdf)

4.3 Deductions

4.3 (1) (i) Outgoings and expenses

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- Deductions are limited to:
 - outgoings and expenses wholly, exclusively and necessarily incurred in the production of your assessable income, not being expenses of a domestic or private nature and capital nature;
 - depreciation allowances in respect of capital expenditure on machinery or plant, the use of which is *essential* to the production of your assessable income.
- For disabled employees, claims for depreciation allowance in respect of the costs of special aids and equipment such as wheelchairs, artificial limbs, visual or hearing aids and their repair and maintenance expenses, may be admitted upon production of evidence to substantiate the amount incurred.
- Subscriptions paid to professional bodies are strictly speaking not allowable expenses. However, if the holding of the professional qualification is a prerequisite of employment, subscription to **one** of the relevant professional bodies is allowable by concession.

 Related information under the Department's web site — [Departmental Interpretation & Practice Notes No. 9 – Major deduction items under salaries tax](http://www.ird.gov.hk/eng/pdf/e_dipn09.pdf)
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4.3 (2) (j) Expenses of self-education


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- Deductible education expenses include tuition and examination fees in connection with a prescribed course of education or fees of an examination set by specified education providers or trade, professional or business associations. The course or the examination must be for gaining or maintaining qualifications for use in any employment.
- A "**prescribed course of education**" is a course undertaken at specified education providers, including universities, technical colleges, schools registered under the Education Ordinance, and institutions approved by the Commissioner. It also includes a training or development course provided by a trade, professional or business association or a course accredited or recognized by professional bodies or institutions specified in Schedule 13 of the Inland Revenue Ordinance. Examples of qualifying courses undertaken are:
 - a management course taken by a business executive;
 - a commercial or computer course taken by a secretary or clerk;
 - a vocational training course taken by a technician;
 - a continuing professional development seminar taken by an accountant or a lawyer.

General interest classes, for example, a Tai Chi course, **will not** qualify as an employment-related course.

- Deduction is only allowed if the expenses have not been or will not be reimbursed by the employer, the Government or any other person, unless the reimbursed or reimbursable amount has been or will be included in the assessable income. If the amount was reimbursed to you after it has been claimed or allowed for deduction, you should inform the Department immediately.
- The maximum amount that can be deducted is:

<u>Year of assessment</u>	<u>Maximum amount of deduction</u>
2003/04 to 2006/07	\$40,000
2007/08 onwards	\$60,000

-  Related information under the Department's web site — [Deduction for Expenses of Self-education \(www.ird.gov.hk/eng/tax/ind_des.htm\)](http://www.ird.gov.hk/eng/tax/ind_des.htm)



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4.3 (3) (k) Approved charitable donations

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- Approved charitable donations (i.e. a donation of money to charities exempted from tax under section 88 of the Inland Revenue Ordinance or to the Government for charitable purposes) paid by you or your spouse shall be allowed as a deduction.
- The aggregate deduction of approved charitable donations must not be less than \$100 and shall not exceed 35% of your income after allowable expenses and depreciation allowances from the year of assessment 2008/09. (For year of assessment 2003/04 to 2007/08, the limit is 25% instead).
- Examples of payments not accepted as allowable donations:
 - Payment for purchase of lottery tickets or raffle tickets
 - Payments for admission tickets for film shows or charity shows
 - Payments for a grave space
 - Payments made for services such as saying prayers, reservation of a space for ancestral worship
 - Purchase of goods in bazaar

 Related information under the Department's web site — [List of tax-exempt charities](http://www.ird.gov.hk/eng/pdf/e_s88list_emb.pdf)
(www.ird.gov.hk/eng/pdf/e_s88list_emb.pdf) — [Approved charitable donations](http://www.ird.gov.hk/eng/tax/ind_acd.htm)
(www.ird.gov.hk/eng/tax/ind_acd.htm)

4.3 (4) (l) Contributions to recognized retirement schemes

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- A recognized retirement scheme means:
 - a Mandatory Provident Fund scheme [MPF scheme]
 - a recognized occupational retirement scheme [ORSO scheme]
- The amount of mandatory contributions paid by you as an employee to a MPF scheme is deductible under Salaries Tax. However, any voluntary contributions made by you are not deductible.
- The maximum amount that can be deducted is \$12,000 for each year of assessment.
- If you have contributed to an ORSO scheme instead of a MPF scheme, the contributions paid by you to the ORSO scheme are also deductible under Salaries Tax. However, the maximum amount deductible for each year of assessment should be the **smallest** of the following 3 amounts:
 - the actual amount of contributions you made to the ORSO scheme;
 - the amount of the mandatory contributions that you would have been required to pay if you had contributed as an employee in a MPF scheme; or
 - \$12,000.



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§ Related information under the Department's web site – [Deductibility of contributions for employees and self-employed persons](http://www.ird.gov.hk/eng/pdf/pam38e.pdf)
(www.ird.gov.hk/eng/pdf/pam38e.pdf)

4.4 (m) Election for joint assessment

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- A married couple may elect to receive a joint assessment if they would pay less tax under a single assessment basis on their combined incomes and allowances than under two separate assessments based on their respective individual incomes and allowances.
- Generally speaking, it is advantageous for a married couple to elect joint assessment when the total amount of allowances and concessionary deductions granted to one spouse is in excess of his/her net assessable income.
- You can visit the GovHK web site and make use of the '[Salaries Tax Computation](http://www.gov.hk/en/residents/taxes/etax/services/tax_computation.htm)' program (http://www.gov.hk/en/residents/taxes/etax/services/tax_computation.htm) installed therein to easily ascertain whether joint assessment would be to your advantage.
- The Department has installed Internet Booths at the lobby and 1/F of the Revenue Tower for access to the Department's web site.