

INFORMATION PAMPHLET



**A BRIEF GUIDE TO TAXES
ADMINISTERED BY THE
INLAND REVENUE DEPARTMENT
2011 - 2012**

**INLAND REVENUE DEPARTMENT
THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

A BRIEF GUIDE TO TAXES
ADMINISTERED BY THE
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.

Table of Contents

	<u>Pages</u>
<u>TAXATION IN HONG KONG</u>	1 - 30
Profits Tax	1 - 7
The Scope of the Charge	1 - 2
The Basis of Assessment	2
Non-Residents and Agents dealing with Non-Residents	2 - 3
Exemptions and Deductions	3 - 4
Tax Incentives	5
Losses	5
Depreciation Allowances	6
Books and Records	7
Salaries Tax	7 - 14
The Scope of the Charge	7
The Basis of Assessment	7 - 8
Income of Husband and Wife	8
Deductions Allowed	8 - 10
Tax Rates	11
Tax Reduction	11
Examples	12 - 14

	<u>Pages</u>
Property Tax	15
The Scope of the Charge	15
The Basis of Assessment	15
Properties for Owner’s Business Use	15
Allowances	16 - 19
Personal Assessment	20 - 21
Obligations of Taxpayers (Salaries, Profits & Property Tax) under the IRO	22
Obligations of Employers under the IRO	23
Completion of Tax Return	24
Charitable Donations	24
Double Taxation	24
Collection of Taxes	25 - 26
<u>MISCELLANEOUS LEVIES</u>	26 - 29
Stamp Duty	26 - 27
Estate Duty	27 - 28
Betting Duty	28
Registration of Businesses	28
Hotel Accommodation Tax	29
<u>EVASION OF TAX - A CRIMINAL OFFENCE</u>	29
Consequence of Filing Incorrect Return	29
<u>ADVANCE RULINGS</u>	29
<u>FURTHER INFORMATION</u>	30

TAXATION IN HONG KONG

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

The taxes levied under the Ordinance 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 made 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 of or right to use in Hong Kong a patent, design, trademark, copyright material, secret process or formula or other property of a similar nature. Effective from 25 June 2004, sums received for the use of, or right to use, such property outside Hong Kong is also taxable, if the sum is allowable for deduction in the hands of the payers.

- (3) 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 rate for corporations is increased from 16% to 17.5% with effect from year of assessment 2003/04 and reduced to 16.5% from 2008/09. For unincorporated businesses, the profits tax rate is increased from 15% to 15.5% in the year of assessment 2003/04, to 16% with effect from 2004/05 and reverted back to 15% from 2008/09.

Businesses subject to Profits Tax will enjoy a reduction of 75% of the final tax for the year of assessment 2007/08, subject to a ceiling of \$25,000 per case.

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 payment is applied in the first instance against Profits Tax payable on assessable profits for that year of assessment when agreed 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 page 1 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 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 a non-resident carries on business with a resident and the business is so arranged that it produces to the resident either no profits or profits less than the ordinary

profits that might be expected to arise to an independent concern, the business may be treated as carried on in Hong Kong by the non-resident through the resident as agent.

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.

Where the accounts of a non-resident whose head office is outside Hong Kong do not disclose the true profits of a Hong Kong permanent establishment, the profits of the branch for tax purposes is taken to be the amount which bears to the taxpayer's total profits the same proportion as his turnover in Hong Kong bears to his total turnover.

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

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 or patent and expenditure on the purchase of patent rights or rights to any know-how for use in Hong Kong in the production of chargeable profits. No deduction is, however, allowable in respect of patent rights or rights to any know-how purchased by a person wholly or partly from an associated or related person.
- (5) Expenditure on research and development including market, management and business research, design-related expenses and payments for technical education subject to certain rules.
- (6) 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.

- (7) 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 (Cap. 485) not exceeding \$12,000 in a year of assessment, taking into account deductions already allowed under any other sections in the Ordinance. However, contributions made for spouses are not deductible.
- (8) Donations of an aggregate not less than \$100 made to approved charities with the restriction that such donation shall not exceed 35% (25% for years of assessment 2005/06 to 2007/08) 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 Inland Revenue Ordinance, 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, contribution made to a mandatory provident fund scheme in respect of the proprietor or the proprietor's spouse or, in case of a partnership, to 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 specially 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 qualified debt instruments.
- (4) Concessionary tax rate for offshore business of reinsurance 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. The non-resident entity must not carry on any other business in Hong Kong.
- (7) With effect from year of assessment 2008/09, 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.
- (8) With effect from year of assessment 2010/11, 100% deduction for capital expenditure on specified environmental-friendly vehicles.

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 claims 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**

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 Incentive’ above, are deducted in arriving at 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 date of the transaction 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 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. 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. 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.

With effect from 1 April 2003, provisions relating to tax exemptions in respect of holiday passage and warrant provided by the employer were repealed. From this date onwards, all holiday journey benefits provided by the employer are chargeable to tax.

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 Inland Revenue Department 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 2010 and earned income for 9 months during year of assessment 2010/11, will be charged provisional tax for 2011/12 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 2011), 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 the 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 Husband and Wife

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 :-

- (a) Expenses wholly, exclusively and necessarily incurred in the production of assessable income, not being expenses of a private or domestic nature and capital expenditure.
- (b) Donations paid to approved charities if the amount is not less than \$100 and with the limitation that such allowance shall not exceed 35% (25% for years of assessment 2005/06 to 2007/08) of the income after allowable expenses and depreciation allowances.
- (c) 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, such as university, college, school, technical institution, training centre, or a training or development course provided by a trade, professional or business association or one accredited or recognised 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>
2005/06 to 2006/07	\$40,000
2007/08 and onwards	\$60,000

- (d) 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 or Residential Care Homes (Persons with Disabilities) Ordinance, or is a nursing home registered under the Hospital Nursing Homes and Maternity Homes Registration Ordinances.

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>
2005/06 to 2010/11	\$60,000
2011/12 and onwards	\$72,000

- (e) A taxpayer can, for any 10 years of assessment of choice (continuous or otherwise), claim deductions for "home loan interest" paid on a home loan for the acquisition of property unit which 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. 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 is \$100,000 from 2005/06 onwards.

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.

- (f) For mandatory contributions paid to a mandatory provident fund scheme (MPFS) by a taxpayer as an employee, the maximum deduction for a year of assessment is \$12,000 per individual.
- (g) 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 deduction is \$12,000 for a year of assessment.

(The maximum deduction under items (f) and (g) is \$12,000 for a year of assessment per individual irrespective of the number of employments and businesses.)

Tax Rates

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

<u>Year of Assessment</u>	<u>2005/06</u>			<u>2006/07</u>		
	Net Chargeable Income \$	Rate	Tax \$	Net Chargeable Income \$	Rate	Tax \$
On the First	30,000	2%	600	30,000	2%	600
On the Next	<u>30,000</u> 60,000	8%	<u>2,400</u> 3,000	<u>30,000</u> 60,000	7%	<u>2,100</u> 2,700
On the Next	<u>30,000</u> 90,000	14%	<u>4,200</u> 7,200	<u>30,000</u> 90,000	13%	<u>3,900</u> 6,600
Remainder		20%			19%	

<u>Year of Assessment</u>	<u>2007/08</u>			<u>2008/09 onwards</u>		
	Net Chargeable Income \$	Rate	Tax \$	Net Chargeable Income \$	Rate	Tax \$
On the First	35,000	2%	700	40,000	2%	800
On the Next	<u>35,000</u> 70,000	7%	<u>2,450</u> 3,150	<u>40,000</u> 80,000	7%	<u>2,800</u> 3,600
On the Next	<u>35,000</u> 105,000	12%	<u>4,200</u> 7,350	<u>40,000</u> 120,000	12%	<u>4,800</u> 8,400
Remainder		17%			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>
2005/06 to 2007/08	16%
From 2008/09 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>
2006/07	50%	\$15,000	Salaries tax or tax under personal assessment
2007/08	75%	\$25,000	Salaries tax, profits tax, property tax or tax under personal assessment
2008/09	100%	\$8,000	Salaries tax or tax under personal assessment
2009/10 & 2010/11	75%	\$6,000	Salaries tax or tax under personal assessment

Examples (for Year of Assessment 2010/11)

<u>Single Income Family</u>	<u>EXAMPLE A</u>		<u>EXAMPLE B</u>	
	Taxed at		Taxed at	
	<u>Progressive Rates</u>		<u>Standard Rate</u>	
	\$	\$	\$	\$
Employment income of husband		450,000		7,000,000
Income of wife		<u>Nil</u>		<u>Nil</u>
		450,000		7,000,000
<u>Less</u> : Husband's deductible outgoings		<u>3,000</u>		<u>4,000</u>
		447,000		6,996,000
<u>Add</u> : Value of quarters 10% on \$(450,000-3,000)	44,700		Nil	
Rent paid to employer	<u>5,000</u>	<u>39,700</u>	<u>Nil</u>	<u>Nil</u>
		486,700		6,996,000
<u>Less</u> : Donations	4,000		5,000	
Mandatory contributions to mandatory provident fund scheme	<u>12,000</u>	<u>16,000</u>	<u>12,000</u>	<u>17,000</u>
		470,700		6,979,000
<u>Less</u> : Married person's allowance	216,000		216,000	
Child allowance for 2 children	100,000		100,000	
Dependent parent allowance for 1 parent	<u>30,000</u>	<u>346,000</u>	<u>30,000</u>	<u>346,000</u>
Net chargeable income		<u>124,700</u>		<u>6,633,000</u>
Tax thereon at progressive rates	40,000@ 2% =	800	40,000@ 2% =	800
	40,000@ 7% =	2,800	40,000@ 7% =	2,800
	40,000@ 12% =	4,800	40,000@ 12% =	4,800
	4,700@ 17% =	<u>799</u>	6,513,000 @ 17% =	<u>1,107,210</u>
		<u>9,199</u>		<u>1,115,610</u>
Tax thereon at standard rate		N.A.	6,979,000@15% =	<u>1,046,850</u>
Tax payable (Before Tax Reduction)		9,199	[Restricted to 15% on \$6,979,000]	1,046,850
<u>Less</u> : 75% Tax Reduction (Restricted to \$6,000)		<u>6,000</u>		<u>6,000</u>
Tax payable (After Tax Reduction)		<u>3,199</u>		<u>1,040,850</u>

Both Spouses Earning Income

EXAMPLE C

Separate Taxation applies :-

	<u>Mr. A</u>	<u>Mrs. A</u>
	\$	\$
Assessable income after deductions	328,000	226,000
<u>Less : Allowances</u>	<u>208,000</u>	<u>108,000</u>
Net chargeable income	<u>120,000</u>	<u>118,000</u>
Tax payable (Before Tax Reduction)	8,400	8,160
Less : 75% Tax Reduction (Restricted to \$6,000)	<u>6,000</u>	<u>6,000</u>
Tax payable (After Tax Reduction)	<u>2,400</u>	<u>2,160</u>

- Note : (1) All Child Allowance for 2 children is 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	373,000	63,000	Mr. B's assessable income	373,000
<u>Less : Allowances</u>	<u>208,000</u>	<u>108,000</u>	Mrs. B's assessable income	<u>63,000</u>
Net chargeable income	<u>165,000</u>	<u>Nil</u>	Less : Allowances	<u>436,000</u>
Unabsorbed allowance	<u>Nil</u>	<u>45,000</u>	Aggregated net chargeable income	<u>316,000</u>
Tax payable	<u>16,050</u>	<u>Nil</u>		
Total tax payable (Before Tax Reduction)	16,050		Total tax payable (Before Tax Reduction)	8,400
Less : 75% Tax Reduction (Restricted to \$6,000)	<u>6,000</u>		Less : 75% Tax Reduction (Restricted to \$6,000)	<u>6,000</u>
Total tax payable (After Tax Reduction)	<u>10,050</u>		Total tax payable (After Tax Reduction)	<u>2,400</u>

- Note : (1) All Child Allowance for 2 children is claimed by Mr. B.
 (2) The couple may elect to be jointly assessed and reduce their total tax payable from \$10,050 to \$2,400.

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		328,000
<u>Less : Allowances</u>	<u>208,000</u>		<u>108,000</u>
Net chargeable income	<u>4,300,000</u>		<u>220,000</u>
Tax payable (Before Tax Reduction)	676,200	(4,508,000 x 15% standard rate)	25,400
Less : 75% Tax Reduction (Restricted to \$6,000)	<u>6,000</u>		<u>6,000</u>
Total tax payable (After Tax Reduction)	<u>670,200</u>		<u>19,400</u>
Total tax payable		<u>\$689,600</u>	

(2) Child Allowances claimed by Mrs. C

	<u>Mr. C</u>		<u>Mrs. C</u>
	\$		\$
Assessable income after deductions	4,508,000		328,000
<u>Less : Allowances</u>	<u>108,000</u>		<u>208,000</u>
Net chargeable income	<u>4,400,000</u>		<u>120,000</u>
Tax payable (Before Tax Reduction)	676,200	(4,508,000 x 15% standard rate)	8,400
Less : 75% Tax Reduction (Restricted to \$6,000)	<u>6,000</u>		<u>6,000</u>
Total tax payable (After Tax Reduction)	<u>670,200</u>		<u>2,400</u>
Total tax payable		<u>\$672,600</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 \$689,600 to \$672,600.

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 16% for 2005/06 to 2007/08 and 15% from 2008/09 onwards.

Property owners subject to Property Tax will enjoy a reduction of 75% of the final tax for the year of assessment 2007/08, subject to a ceiling of \$25,000 per case.

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. The net assessable value is the assessable value (after deduction of rates agreed to be paid and paid by the owner and irrecoverable rent, 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 is entitled to Married Person's Allowance if he/she was, at any time during the year :

- (a) married and not living apart from his/her spouse ; or
- (b) living apart from his/her spouse but was maintaining or supporting him/her.

and, in the situation where the taxpayer is assessed to Salaries Tax, his/her spouse did not derive any income chargeable to Salaries Tax or the couple has elected for Joint Assessment.

◆ **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 husband or the wife.

- For each child, child allowance is increased from \$40,000 to \$50,000 for the year of assessment 2007/08, and to \$60,000 with effect from the year of assessment 2011/12. With effect from the year of assessment 2007/08, an additional one-off Child Allowance of \$50,000 will be granted in the year the child was born. The amount is increased to \$60,000 from the year of assessment 2011/12 onwards. In other words, the total child allowance for a newborn child, in the year of born, will be \$100,000 for the years of assessment 2007/08 to 2010/11, which is increased to \$120,000 from the year of assessment 2011/12 onwards.

◆ **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 :-

- (a) under the age of 18 years;
- (b) 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

- (c) 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**

- (a) 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 (i.e. the dependent parent/grandparent must be habitually and normally resident 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.
- (b) 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.
- (c) 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 Inland Revenue Department 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.
- (d) 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;
 - (iv) the person's or his/her spouse's natural parent; or
 - (v) a parent of the person's deceased spouse.

- (e) 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.

◆ **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>	2005/06 and <u>2006/07</u>	2007/08	2008/09 to <u>2010/11</u>	<u>2011/12</u> onwards#
	\$	\$	\$	\$
<u>Basic allowance</u>	100,000	100,000	108,000	108,000
<u>Married Person's Allowance</u>	200,000	200,000	216,000	216,000
<u>Child Allowance</u>				
For the 1st to 9th child (For each qualified child)	40,000	50,000	50,000	60,000
For each child born during the year, the allowance is increased by	-	50,000	50,000	60,000
<u>Dependent Brother or Dependent Sister Allowance</u> (For each qualified brother/sister)	30,000	30,000	30,000	30,000
<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	30,000	30,000	30,000	36,000
For each qualified parent/grandparent aged 55 or above but below 60	15,000	15,000	15,000	18,000
<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	30,000	30,000	30,000	36,000
For each qualified parent/grandparent aged 55 or above but below 60	15,000	15,000	15,000	18,000
<u>Single Parent Allowance</u>	100,000	100,000	108,000	108,000
<u>Disabled Dependand Allowance</u> (For each qualified dependand) # until superseded	60,000	60,000	60,000	60,000

PERSONAL ASSESSMENT

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

The Inland Revenue Ordinance 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 :-

- (a) 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);
- (b) approved charitable donations (capped at 35% of the total income for computing tax under personal assessment as from the year of assessment 2008/09 and 25% from 2005/06 to 2007/08);
- (c) elderly residential care expenses;
- (d) home loan interest;
- (e) mandatory contributions paid to mandatory provident fund scheme as an employee;
- (f) contributions paid to a recognized occupational retirement scheme;
- (g) business losses incurred in the year of assessment;
- (h) losses brought forward from previous years under Personal Assessment; and
- (i) personal allowances (see ALLOWANCES).

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

Who may elect for Personal Assessment

An individual may elect for Personal Assessment if :-

- (a) he/she is 18 years of age or over, or under that age if both his/her parents are dead; and
- (b) the individual is or, if he/she is married, whose spouse is a permanent or temporary resident in Hong Kong.

For the purpose of Personal Assessment :-

“permanent resident” means an individual who ordinarily resides in Hong Kong;

“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.

Where an eligible individual is married and not living apart from his or her spouse and both of them have income assessable under the Inland Revenue Ordinance, that individual may not elect for Personal Assessment unless his or her spouse also elects.

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, whichever is the later.

Treatment of a Married Couple under Personal Assessment

Unlike Salaries Tax, separate taxation for husband and wife is not applicable under Personal Assessment. A husband and wife are assessed jointly under 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 husband and the wife 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 spouse assessed in respect of that income.

OBLIGATIONS OF TAXPAYERS (SALARIES, PROFITS & 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 takes place which might affect such exemption, the corporation must notify the Commissioner of Inland Revenue 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 of Inland Revenue 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 of Inland Revenue 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 of Inland Revenue 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 of Inland Revenue in writing within 1 month. The Inland Revenue Ordinance also provides that anything sent from the Inland Revenue Department is properly served if sent by post to a person's last known address. In other words although a person failed to receive a notice from the Department, he is deemed to have received it if it was sent by post to his last known address. The Department usually sends all mail 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 date of the transaction 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, within 3 months of engagement, particulars of any new employee who is likely to be chargeable to Salaries Tax.
- ◆ **Section 52(5)** - An employer must notify the Commissioner of Inland Revenue in writing not less than 1 month before the termination of service of any employee who is likely to be chargeable to Salaries Tax.
- ◆ **Section 52(6)** - An employer must, not later than a month before the employee actually leaves, notify the Commissioner of Inland Revenue in writing whenever an employee who is chargeable to Salaries Tax is about to leave Hong Kong for more than a month. 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 of Inland Revenue the expected departure of an employee must not, except with the consent in writing of the Commissioner, make any payment to the employee for a period of 1 month from the date of that notice.
- ◆ **Personnel** if employed or treated to be employed under section 9A of the Inland Revenue Ordinance, or holding an office are chargeable to Salaries Tax, employers are required to report their earnings even if these are made by way of a variable commission.
- ◆ **Freelance brokers** 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 employing such agents need to give details of commissions they pay and employers making Employer's Returns are required to include this information in Form IR56M.

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

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.

CHARITABLE DONATIONS

A person who is chargeable to Salaries Tax or Profits Tax or who elects to be personally assessed can deduct from assessable income or assessable profits or total income for Personal Assessment the aggregate (not less than \$100) of donations made to approved charitable institutions or trusts of a public character or to the Government for charitable purposes up to a limit of 35% (25% for years of assessment 2005/06 to 2007/08) of the adjusted assessable income or adjusted assessable profits or total income for Personal Assessment.

DOUBLE TAXATION

In August 2006, a comprehensive double taxation arrangement was signed between the Mainland of China and Hong Kong. The Arrangement has effect in respect of income derived from the Mainland on or after 1 January 2007 and income derived from Hong Kong in any year of assessment commencing on or after 1 April 2007. The Arrangement covers profits tax, salaries tax and property tax, whether or not the tax is charged under personal assessment, in Hong Kong; and individual income tax and enterprise income tax in the Mainland.

Besides, Hong Kong concluded comprehensive double taxation agreements with Belgium, Thailand, Luxembourg, Vietnam, Brunei, the Netherlands, Indonesia, Hungary, Kuwait, Austria, the United Kingdom, Ireland, Liechtenstein, France, Japan, New Zealand, Switzerland, Portugal, Spain and the Czech Republic respectively. The agreements detail the allocation of the taxing right on income chargeable under the Inland Revenue Ordinance as well as special provisions on the implementation of the agreements.

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

Please refer to our website www.ird.gov.hk for a complete list of the various double taxation agreements concluded by Hong Kong with the respective dates of signature and the coming into effect.

COLLECTION OF TAXES

A notice of assessment served to a taxpayer stipulates the amount of tax payable and the due date. A taxpayer should refer to the accompanying payment voucher and settle the amount payable on time by the following means :-

(1) **Payment by electronic means**

Payment can, subject to the personal transaction limit of taxpayers, be made by phone, by bank automated teller machines (ATM), or via the internet. The correct Shroff Account Number should be used when making payment.

The Inland Revenue Department'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" sign, or at any JETCO ATMs with the "Jet Payment" Logo.

To make payment via the internet, taxpayers can visit our website www.ird.gov.hk, select the preferred language, click on "Payment" under the "Tax Information - Others" menu, "Payment Methods" and then "Payment via Internet", and follow the instructions/links under the heading.

(2) **Payment by post**

Any payment by post should be by cheque and not in cash, should allow for sufficient mailing time, and should be accompanied by the payment voucher. Post-dated cheques 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 by cheque, cash or EPS together with the payment voucher can be made at any post offices (except mobile post offices).

To pay tax by electronic means, taxpayers should enter the "Shroff Account Number for electronic payments" printed on the payment voucher or payment slip and observe the daily transaction limit and payment instructions of the relevant banks.

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. 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 Department. 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) Fixed 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 as at 1 April 2009 is 8%.

If 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).

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 duty on others. Fixed duties vary from \$3 to \$100 whereas ad valorem duties range from 0.1% to 4.25%.

In the case of conveyances of immovable property, the following duties are chargeable :-

- (1) \$100 where sale price does not exceed \$2,000,000;
- (2) 1.5 per cent where the sale price exceeds \$2,000,000 but does not exceed \$3,000,000;
- (3) 2.25 per cent where the sale price exceeds \$3,000,000 but does not exceed \$4,000,000;

- (4) 3 per cent where the sale price exceeds \$4,000,000 but does not exceed \$6,000,000;
- (5) 3.75 per cent where the sale price exceeds \$6,000,000 but does not exceed \$20,000,000; or
- (6) 4.25 per cent 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, stamp duty at the same rates as conveyances of immovable property is chargeable on agreements for the sale and the purchase of residential property. After the agreement has been so stamped, the related conveyance will be chargeable with a fixed stamp duty of \$100 only.

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

- (1) 15% if the property has been held for six months or less;
- (2) 10% if the property has been held for more than six months but for 12 months or less; and
- (3) 5% if the property has been held for more than 12 months but for 24 months or less.

Leases granted in consideration of premium only attract the same duties as for conveyances of land. For leases granted in consideration of both premium and rent, the premium attracts an ad valorem duty of 4.25% while the rate of duty on rents varies with the period of the lease (from 0.25% to 1% of the annual rent).

Transactions in Hong Kong Stock require the preparation of contract notes on which buyers and sellers have each to pay ad valorem duty at the rate of 0.1% of the consideration.

In all cases, the Collector of Stamp Revenue is empowered to charge duty based on the market value of the property conveyed or shares 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 on 11 February 2006. No estate duty is payable in respect of estates of persons passing away on or after that date. The benefit of abolition has also been extended to cases of deaths occurring on or after 15 July 2005 but before 11 February 2006, by imposing a nominal duty of HK\$100 on such estates if the assessed value exceeds HK\$7.5 million.

For persons who pass 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

The Betting Duty (Amendment) Ordinance 2006 was enacted, and came into operation on 1 September 2006. The betting duty on horse races will be charged on gross profits (previously on turnover) at a set of progressive rates from 72.5% to 75%, after deducting dividends and rebates on bets (to bettors making losing bets at or over \$10,000). [First \$1 billion at 72.5%, next \$1 billion at 73%, next \$1 billion at 73.5%, next \$1 billion at 74%, next \$1 billion at 74.5%, 75% for the amount exceeding \$15 billion.] The discount rate for specified places (e.g. Macau) is 40% whereas the discount rate for a place outside Hong Kong (other than specified places) is 50%. 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. With effect from 18 July 2003, duty is charged at 50% on the net stake receipts from the conduct of authorized betting on football matches by an authorized company.

REGISTRATION OF BUSINESSES

Except for few exempt businesses, every person carrying on business in Hong Kong must register the business and pay the required fee and levy within one month of the commencement of the business. 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 registered under the Companies Ordinance (Cap. 32), whether actually in operation or not, is required to register and pay the required fee & levy. With effect from 21 February 2011, the Companies Registry and the IRD jointly launch a one-stop company and business registration service. Any person who submits an incorporation form of a local company (Form NC1 or NC1G) or an application form for registration of a non-Hong Kong company (Form N1) at the Registry will be deemed to make a business registration application at the same time. Under this new registration regime, 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/Registration together with a Business Registration Certificate to the applicant.

Except for companies incorporated or registered under the Companies Ordinance, 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 maximum penalty is a fine of \$50,000 plus a further fine of treble the amount of tax undercharged and to imprisonment for 3 years. 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 Inland Revenue Ordinance applies to him or the arrangement specified in the application.

FURTHER INFORMATION

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

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November 2011