



## Related Tax Rules of Guide to Tax Return – Individuals

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#### **Section 2** Application for a Lump Sum Included under Part 4.1 of BIR60 to be Related Back

You are entitled, upon application in writing, to have any lump sum payment 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, the relating back of lump sum payments may reduce your overall tax liability.

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.

#### **Section 3** Relief claimed under Double Taxation Arrangement(s)

- Tax relief is available only for countries / territories with which Hong Kong has a Comprehensive Double Taxation Agreement / Arrangement. List of the countries / territories is available on the Department's web site ([www.ird.gov.hk/eng/tax/dta\\_inc.htm](http://www.ird.gov.hk/eng/tax/dta_inc.htm)).
- The Mainland and Hong Kong signed the "Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income" ("the Comprehensive Arrangement") on 21 August 2006. The Comprehensive Arrangement has become effective on 8 December 2006. The part relating to Hong Kong tax in the Comprehensive Arrangement applies to income derived in any year of assessment commencing on or after 1 April 2007, while the part relating to Mainland tax applies to income derived in any taxable year commencing on or after 1 January 2007.
- Under the Comprehensive Arrangement, the remuneration that a Hong Kong resident working on the Mainland received may be exempted from taxation on the Mainland if he satisfies all of the following 3 conditions. These 3 conditions are:
  - He was present on the Mainland for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the taxable year concerned;
  - The remuneration is not paid by his Mainland employer or its representative;
  - The remuneration is not borne by a permanent establishment set up by the employer on the Mainland.



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If any one of the above conditions is not satisfied, the remuneration will be subject to taxation on the Mainland. If the remuneration is also subject to taxation in Hong Kong, a tax credit will be allowed for the tax paid on the Mainland under the Comprehensive Arrangement.

#### **Section 4 Application for Full/Partial Exemption of Income Included under Part 4.1 of BIR60**

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;
- part of the income has been subject to tax in another jurisdiction; or
- salaries tax concessions are claimed for eligible carried interest.

#### **Section 5 Place of Residence Provided by each employer or associated corporation during the year**

If a place of residence is provided to you by your employer or its associated corporation, this part must be completed. Refer to [Part 4.2 of “Related Tax Rules: Salaries Tax”](#) for details ([www.ird.gov.hk/eng/pdf/bir60\\_st\\_e.pdf](http://www.ird.gov.hk/eng/pdf/bir60_st_e.pdf)).

#### **Section 6 Connected Entities of the Business that is Chargeable at Two-tiered Profits Tax Rates**

If, at the end of the basis period of the entity for the relevant year of assessment, the entity has one or more connected entities, the two-tiered profits tax rates would only apply to the one which is nominated to be chargeable at the two-tiered rates. The others would not qualify for the two-tiered profits tax rates.

The nominated entity may make the election by declaring in its Tax Return – Individuals (for sole proprietorships) that it is chargeable at the two-tiered profits tax rates for the relevant year of assessment whereby no other connected entity elects to be so chargeable.



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#### Section 8

#### Deduction claims for Expenditure on Research and Development / Environmental Protection Facilities / Intellectual Properties

- Expenditure on Research and Development
  - For qualifying expenditure incurred on non-domestic research and development (R&D) including market, management and business research, design-related expenses and payments for technical education, it is entitled to a 100% tax deduction.
  - For qualifying expenditure incurred on domestic R&D, the first \$2 million is entitled to a 300% tax deduction and the amount beyond \$2 million is entitled to a 200% deduction.
  
- Expenditure on Environmental Protection Facilities

For specified environmental protection facilities including machinery or plant and installations forming part of a building or structure and specified environment-friendly vehicles, 100% deduction will be allowed for capital expenditure incurred.
  
- Expenditure on Intellectual Properties
  - Deductions for expenditure on the purchase of specified intellectual property rights for use in the production of chargeable profits are allowed.
  - 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.