10. Objections and Holdovers

(a) If I received a Notice of Assessment and found that

- ✧ **the assessed income is excessive, or**
- ✧ **the amount of deductions/allowances is incorrect, or**
- ✧ **the amount of tax charged is excessive,**

what should I do?

➢ Object within one month

Firstly, you should check any assessor's note printed in the notice of assessment to find out the reason.

If you still disagree with the assessment, you must lodge a written notice of objection with this Department within one month after the date of issue of the notice of assessment, stating the grounds of objection clearly.

Upon election for Personal Assessment, you will in due course receive a notice of assessment showing computation of income and tax under Personal Assessment. However, this assessment will not extend to you further time for lodging objection against previously issued Property Tax assessment, Profits Tax assessment or Salaries Tax assessment.

The IRD will not accept any objection lodged out of time. However, the Commissioner may consider to accept your late objection if you were prevented from lodging your objection within the one month period by reason of absence from Hong Kong, sickness or other reasonable excuse.

You will object if you think your income has been over-assessed or you are entitled to receive more deductions/allowances.

However, even if your income has been under-assessed or you have been allowed deductions/allowances over your actual (correct) entitlements, you should raise an objection and ask the Assessor to issue an amended assessment.

➢ You must file a tax return before you may object against an estimated assessment issued under section 59(3)

If the assessment was an estimated assessment raised under section 59(3) of the Inland Revenue Ordinance, you must submit a completed tax return together with your objection letter to validate your objection.

➢ Election for Personal Assessment

If you wish to get personal allowances and other deductions which you will only get upon election of Personal Assessment, you should ensure that you (and your spouse, if married) have made valid election(s) for Personal Assessment.

➢ The tax demanded must be paid by the due date

Pending the ultimate settlement of the objection, you should pay the amount of tax as indicated on the demand note. You may pay a lesser amount of tax only if the Assessor has advised you to do so.

(b) Holdover of Provisional Tax

➢ Grounds for Holdover

If you are liable to pay provisional tax for any year of assessment you may apply in writing for holding over of the whole or part of the provisional tax on the grounds as provided in the Inland Revenue Ordinance. Please note that the grounds for each tax type are slightly different. For details, click HERE.

➢ Time Limit for Application

✧ You must lodge a written application not later than :-

(a) 28 days before the due date for payment of the provisional tax, or

(b) 14 days after the date of issue of the notice for payment of the provisional tax,

whichever is the later.

If the provisional tax is payable by 2 instalments, and the first instalment has been settled by the due date, an application for holding over of payment of the whole or part of the second instalment may be made subject to time limit and grounds for application as prescribed in the Inland Revenue Ordinance.

Grounds for Application of Holding Over of The Various Types of Provisional Tax

➢ Holding Over of Provisional Salaries Tax

The grounds for holdover are: -

(1) More allowance for deduction for the provisional tax year.

For example,

a newborn baby

a dependent parent/grandparent attaining the age of 55 (or the age of 60 for the years prior to year of assessment 2005/06)

a newly-wedded spouse who does not earn assessable income

** Full particulars relating to the new entitlement of allowance should be provided in the application.*

(2) Your net chargeable income for the provisional tax year was less than/likely less than

90% of the net chargeable income for the preceding year

OR

90% of the estimated sum in respect of which you are liable to pay provisional tax

(You should state the estimated amount of income for the provisional tax year in your application.)

For example

Your net chargeable income for the year of assessment 2004/05 is $500,000.

In view of a reduction in monthly salary of $5,000 on a change of job effective on 1 May 2005, you estimate that your net chargeable income for the year2005/06 will likely be reduced to less than $450,000.

You may apply for holding over of payment of provisional tax for 2005/06.

(3) You have ceased employment, and your income reduced during the provisional tax year.

(4) You have an unsettled objection against your Salaries Tax assessment for the year preceding the year of assessment.

➢ Holding Over of Provisional Property Tax

The grounds for holdover are :-

(1) Your net assessable value for the provisional tax year was less than/likely less than

90% of the net assessable value for the preceding year

OR

90% of the estimated net assessable value in respect of which you are liable to pay provisional tax

(You should state in your application full particulars of rental income receivable for the provisional tax year and furnish supporting evidence, e.g., copy of the new tenancy.)

For example

Your net assessable value for the year of assessment 2004/05 is $500,000.

You estimate that your net assessable value for the year of assessment 2005/06 will likely be reduced to less than $450,000.

You may apply for holding over of payment of your 2005/06 provisional tax.

(2) You have sold your property, and your rental income reduced during the provisional tax year.

(3) You have elected for Personal Assessment and your tax may be reduced.

(4) You have an unsettled objection against your Property Tax assessment for the year preceding the year of assessment.

➢ Holding Over of Provisional Profits Tax

The grounds for holdover are :-

(1) The assessable profits of your business for the provisional tax year were less than/likely less than

90% of the assessable profits for the preceding year

OR

90% of the estimated assessable profits in respect of which you are liable to pay provisional tax

(You should submit evidence including properly signed draft accounts covering a period of not less than 8 months together with your application.)

(2) The amount of any loss brought forward for set off to that year of assessment has been omitted.

(3) You have closed your business or it has become dormant, and your profits will likely be reduced during the provisional tax year.

(4) The Assessor would accept that your provisional tax would be reduced as a result of your election for Personal Assessment.

(5) You have an unsettled objection against your Profits Tax assessment for the year preceding the year of assessment.