1 What tax obligations do I have as an Employer?

(a) Your tax obligations commence when you hire the first employee

(b) On hiring the employee

- You have to maintain a record of that person's
  1. personal particulars
     (name, address, identity card or passport number, marital status)
  2. nature of employment
     (full time or part-time)
  3. capacity in which employed
     (e.g. sales manager, salesman, worker, in-house lawyer, accountant, director)
  4. amount of cash remuneration
     (regardless of denomination in domestic or foreign currency and remuneration paid overseas)
  5. non-cash and fringe benefits
     (such as quarters, holiday journey benefits, share award, share option)
  6. employer's and employee's contributions to the Mandatory Provident Fund (MPF) or its equivalent
  7. employment contract and amendments to terms of employment
  8. period of employment

- You have to update, as far as possible
  1. change in his personal particulars (such as address and marital status)
  2. change in nature of employment (such as a change in job from full time to part-time)

- You have to report him on your Employer's Return for 2004/05 if he is
  1. paid an annual income of $100,000 or more (single person) *
  2. married (regardless of amounts)
  3. a part-time staff (regardless of amount)
  4. a director (regardless of amount)

** The personal allowance for a single person is as follows:-*

Year of Assessment	*Basic Allowance*
2004/05	*$100,000*

- You have to file ***one copy*** of form IR 56E within 3 months of employing a person if you anticipate that he is likely to be chargeable to Salaries Tax.

Example 1

(c) On termination of his service (or death)

- You have file ***one copy*** of form IR 56F one month before the date of termination of his employment.

Example 2

(d) On his leaving Hong Kong for good or for a substantial period of time

- You have to ascertain from the employee his expected date of departure.

- You have file ***two copies*** of form IR 56G (pink) one month before the expected date of departure.

- From the date of filing IR 56G and until such time the employee has made tax clearance and can produce to you "a letter of release" issued by the IRD, you should withhold all amounts due to be paid to him (including salaries, commission, bonus, reimbursement of rent/expense, money or money's worth included).

Example 3

click here for procedures on making tax clearance

click here for specimen of "letter of release"

(e) Business owners are required to keep business accounting records, including payroll records, for at least 7 years.

You may read the leaflets "A Guide to Keeping Business Records" and "Admissibility of Business Records Kept in Electronic Form for Tax Purposes" for details of what and how records should be kept.

Example 1

On 3rd of April 2004, Company X employed a bookkeeper, Ms Mary CHAN.

✧ For this new employee, if she is likely to be chargeable to Salaries Tax.

Filing of IR 56E

Company X should file **ONE COPY** of a completed I.R.56E (green form) by 3rd of July 2004.

Filing of IR 56B

Subsequently, on receipt of the annual Employer's Return for 2004/05 in early April 2005, Company X should complete a IR 56B, if Mary is on its payroll on 31 March 2005.

If, however, Company X is a new company and does not receive any Employer's Return for 2004/05 by 16 April 2005, the Manager of the company should write to the IRD and ask for the issue of an Employer's Return for the year of assessment 2004/05.

✧ Company X should provide Mary with a copy of I.R.56E and I.R.56B.

✧ If Mary's annual income does not exceed the basic allowance but she is married, and the income position of her husband is unknown to Company X, so Company X should file IR 56E and 56B in the manner described above.

✧ If Mary is single but employed as a part-time staff and Company X is unknown whether she has other part-time or principal employment, Company X should file IR 56E and 56B in similar fashion.

Example 2

On 5th July 2004, Mr. George LAU terminated his employment with Company Y.

✧ Company X must ask George to ascertain if he would leave Hong Kong after leaving employment,

- If **no**, company Y should file **ONE COPY** of completed I.R.56F (blue form) **on or before** 5th June 2004
- If **yes**, Company Y should file **TWO COPIES** of completed I.R.56G (pink form) and withhold all moneys due to George.

See Example 3 for details

✧ Company Y should provide George with a copy of I.R.56F.

✧ Please bear in mind that after filing I.R.56F, Company Y **should NOT file** any I.R.56B for 2004/05 for George in April 2005. Filing two forms 56s in respect of the same income may give rise to charging of tax twice on that income.

Example 3

On 5th July 2004, Mr. Peter WONG terminated his employment with Company Z. Subsequently he left Hong Kong on 8th July 2004 to study in Canada.

- ✧ Company Z should file a completed I.R.56G (pink form) **in duplicate** for Peter **on or before** 8th June 2004.
- ✧ Apart from filing I.R.56G, Company Z **is also required** to withhold all amounts due to be paid to Peter (including salaries, commission etc, money or money's worth included) from the date of filing the I.R.56G.
- ✧ Company Z should provide Peter with a copy of I.R.56G.
- ✧ Company Z should advise Peter to approach the IRD to make tax clearance prior to leaving Hong Kong.
- ✧ On settlement of his taxes, IRD will issue a "letter of release". Upon sight of the release letter, Company Z may release the amounts withheld to Peter.
- ✧ If Peter wants the IRD to issue a "letter of release" immediately, he should pay tax by means of cash, EPS or cashier order at Post Office payment counters at 1/F of Revenue Tower. Then he should take the receipt to IRD's Collection Office on the 7/F of the Revenue Tower to request for a "letter of release". Please note that IRD staff will normally take 30 to 40 minutes to prepare the "letter of release".
- ✧ If Peter pays tax by cheque, the "letter of release" will normally be sent by post 10 days after the receipt of cheque.
- ✧ Even if Peter is exempt from tax, the IRD will still issue a letter of release upon completion of the tax clearance procedures.
- ✧ If Peter fails to pay up his taxes, the IRD will issue a garnishee notice (I.R.113) to Company Z requiring the company to settle Peter's taxes from the money withheld. Company Z's compliance with the I.R.113 will constitute a valid defence at court against any cliam for non-payment of salaries to Peter.
- ✧ Please bear in mind that after filing I.R.56G, Company Z **should NOT file** any I.R.56B for 2004/05 for Peter in April 2005. Filing two forms 56s in respect of the same income may give rise to charging of tax twice on that income.

Specimen of "Letter of Release"

稅 務 局
香港灣仔告士打道 5 號
稅務大樓

INLAND REVENUE DEPARTMENT
REVENUE TOWER,
5 GLOUCESTER ROAD, WAN CHAI,
HONG KONG.
網址 Web site: http://www.info.gov.hk/ird
來函請寄「香港郵政總局郵箱 132 號稅務局局長收」
ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:—
COMMISSIONER OF INLAND REVENUE,
G.P.O. BOX 132, HONG KONG.

來函編號
Your Ref.:
來函請quote本局檔案號碼
IN ANY COMMUNICATION PLEASE QUOTE OUR FILE NO.

組別編號：
Section Code 6A1

Z 公司
香港德輔道中
易發商業大廈 101 室

檔案號碼：
File No. 6A1 – E123456(7)

電 話：
Tel. No.: 2594 2222

圖文傳真：
Faxline No.: 2877 1232

日期：日 Day 月 Month 年 Year
Date: 17 / 6 / 2002

先生／女士／執事先生：

Dear Sir/Madam/Gentlemen,

僱 員
Employee: Mr Peter Wong
根據《稅務條例》第 52(7) 條的規定所扣存的款項
Moneys retained under Section 52(7) of the Inland Revenue Ordinance

你曾於 2002 年 6 月 5 日根據《稅務條例》第 52(6) 條的規定遞交有關上述人士的通知書。現除受本函第二段所載情形限制外，你可將以前根據《稅務條例》(第 112 章) 第 52(7) 條的規定而扣存的任何款項付給該名人士。

本同意釋款書祇適用於你 2002 年 6 月 5 日發出的通知書內所列的款項餘額。至於其他應評稅入息 (即其後該名人士所應得的入息)，則應另行發出通知書申報，並須以發出該通知書的日期起計照樣扣存 1 個月，直至獲本局發出另一份同意釋款書時才可支付給該名人士。

I refer to your notice under Section 52(6) dated _____ in respect of the abovenamed. Subject to paragraph 2 below, any money retained by you under the requirements of Section 52(7) of the Inland Revenue Ordinance (Cap. 112) may now be paid to him/her.

This letter of release only applies to the balance of the moneys which was reported in your notice dated _____ _____. Any other sums of assessable income, which subsequently become due to him/her, should be reported by a fresh notice and should likewise be retained for a period of one month from the date on which you give that notice. The payment of such income within the aforesaid period will require a further letter of release.

Yours faithfully,

稅務局局長
(鄭美玲 代行)

for *Commissioner of Inland Revenue*

副本送：
c. c. Messrs.
貴公司參考編號：
Your Ref.:

I.R.表格第 607 號 (11/2001)
I.R. 607 (11/2001)