

NOTES AND INSTRUCTIONS FOR FORM IR56B

1. Employer's Obligations to Complete and File Form IR56B

- (a) Form IR56B should be completed and filed for each of the following **persons** to report his/her total income (See Note 3 below) for the relevant year:-
- (i) Employees (including labourers, workers etc. whether daily paid or otherwise, and employees who have received remuneration through service company arrangements), whether resident in Hong Kong or not, whose total income is in excess of the Basic Allowance of the relevant year of assessment (if employed for less than a year, a proportionately reduced amount). The Basic Allowance for the year of assessment 2020/21 is \$132,000. For details of the Basic Allowance of the latest 7 years of assessment, you may visit www.ird.gov.hk/eng/tax/ind.htm.
 - (ii) Directors, married persons and part-time employees who were likely to have other income chargeable to Salaries Tax, irrespective of any amount paid and whether resident in Hong Kong or not.
 - (iii) Employees of any non-Hong Kong company who were assigned or seconded to your company for duties in or outside Hong Kong.
 - (iv) Persons to whom a pension was paid or accrued. In the case of pensioners who have left Hong Kong permanently, only those pensioners whose pension is in excess of the Basic Allowance of the relevant year of assessment need to be reported.
 - (v) Former employees and former directors who have realized gain by the exercise, assignment or release of any share option previously granted by the employer or by any other corporation in respect of their former employment with or former office in the employer. In the case of former employees who did not have any other income chargeable to Salaries Tax during the reporting year, only those employees whose gain realized is in excess of the Basic Allowance of the relevant year of assessment need to be reported (See Note 9(b) below).
- (b) The term 'year' refers to the twelve-month period ending on 31 March that is printed on the front page of the Employer's Return of Remuneration and Pensions (Form BIR56A). For example, the year ended 31 March 2021 is the twelve-month period from 1 April 2020 to 31 March 2021.
- (c) If the Department has issued the Form BIR56A to you but no person falls within the scope of Note 1(a) stated above, please tick the 'NO' Box in the part of the return for declaring the number of Form IR56B reported.
- (d) **Information on each Form IR56B filed must be complete and legible.**
- (e) Form IR56B must be signed by the Proprietor for a sole proprietorship business, Precedent Partner for a partnership business, Company Secretary / Manager / Director / Investment Manager (only applicable to an open-ended fund company) / Provisional Liquidator / Liquidator for a corporation, Principal Officer for a body of persons or Agent for a non-resident person.
- (f) **All Forms IR56B must be signed by the same responsible person signing on the Declaration of the Form BIR56A.**
- (g) You may visit www.ird.gov.hk/eng/pdf/ir56h_e.pdf to read information regarding the other obligations of an employer.

2. General Matters

- (a) You can file the Form IR56B through the Internet by using the Employer's Return e-Filing Services under eTAX. You may also use the IRD IR56B Software or pre-approved self-developed software to prepare the Form IR56B in electronic format and then submit a storage device containing the electronic records, together with the Form BIR56A and a control list. For details, please visit www.ird.gov.hk/eng/ese/erc.htm.
- (b) If you choose to file Form IR56B in paper form, you may :-
- (i) use the printed form provided by the Department;
 - (ii) download the form at www.ird.gov.hk; or obtain the form from the 'Fax-A-Form' Service at 2598 6001. (Form must be printed on white plain A4 size paper.)
- (c) **Fill in the H.K. Identity Card No. of the employee at item 3(a).** If the employee does not have H.K. Identity Card, provide his / her passport number and place of issue at item 3(b). **Inform the Department in writing once the employee's H.K. Identity Card No. is known.**
- (d) Forms IR56B should be filed in **alphabetical order of surnames and then other names.**
- (e) **Each Form IR56B should be marked in numerical order starting from "1".** ONE numbering sequence should be used.
- (f) Provide a copy of the completed Form IR56B to each person in Note 1(a) above. Copies of the completed Forms IR56B should be retained for your own reference.
- (g) All amounts must be shown in **HK dollars** (excluding cents). You may visit www.ird.gov.hk/eng/tax/ind_stp.htm to check the average exchange rates of major foreign currencies for Salaries Tax purposes.

3. Income to be reported

- (a) Salaries Tax is charged on employment income arising in or derived from Hong Kong which includes income derived from services rendered in Hong Kong and remuneration paid to an employee under certain service company arrangements.
- (b) Complete item 13 for those employees assigned or seconded to you and **include the whole of income paid by the non-Hong Kong company** in item 11.
- (c) The **gross income** before any deductions rather than the net sum should be reported. For example, recoupment from employees in respect of expenses paid by you on their behalf; portions of income considered attributable to services rendered outside Hong Kong, etc. should be included in the gross income.
- (d) **Contributions to Recognized Retirement Schemes by employer and employee**
Report the **GROSS income** before deduction of contributions to recognized retirement schemes by employee at item 11(a). Mandatory and voluntary contributions made by employer should **NOT** be reported. For example :-
- (i) Monthly salary of employee = \$20,000
 - (ii) Employer's and employee's respective monthly contribution to a recognized retirement scheme is 5%, i.e. \$20,000 x 5% = \$1,000
 - (iii) The net monthly sum received by employee = \$20,000 - \$1,000 = **\$19,000**
 - (iv) The amount to be reported at item 11(a) = \$20,000 x 12 months = **\$240,000**
 - (v) Employer's contributions of \$12,000 (i.e. \$1,000 x 12 months) should **NOT** be reported at item 11.
- (e) Income received by owners and / or their spouses from their unincorporated businesses (such as sole proprietorship or partnership businesses) is not chargeable to Salaries Tax and thus should **NOT** be reported on the Form IR56B.
- (f) Income received by persons other than employees should not be reported on the Form IR56B. Such payments should be reported on the Form IR56M. However, if the recipient is a corporation or non-local person, filing of Form IR56M is not required.

4. Item 11(d) Commission / Fees

The commission and fees to be reported are the amounts that the employee or former employee became entitled to claim during the reporting year.

5. Item 11(e) Bonus

If the employee is entitled to claim payment of a bonus in respect of a reporting year under the terms of employment, the amount of bonus must be reported in that year irrespective of when it was paid. In all other circumstances the amount of bonus actually paid to the employee during the reporting year must be reported.

6. Item 11(f) Back Pay, Payment in Lieu of Notice, Terminal Awards or Gratuities

- (a) The amount to be reported here refers to the following sums accrued or paid during the reporting year:-
- (i) a lump sum payment or gratuity paid upon retirement or termination of any office or employment or any contract of employment ;
 - (ii) payment in lieu of notice, whether paid under the term of an employment contract or the Employment Ordinance; and
 - (iii) deferred pay or arrears of pay resulting from a salaries or wages award.
- (b) However, severance payment or long service payment made in accordance with the Employment Ordinance should not be included. For example :-
- (i) An employee working for 8 years with monthly salary of \$12,000 terminated the employment
 - (ii) Retirement scheme benefits (that part attributable to employer's contributions) or contract gratuity = \$50,000
 - (iii) Amount of severance payment actually made by employer = \$96,000
 - (iv) **The excess amount made to be reported at item 11(f)**
= \$82,000 (i.e. \$96,000 - \$14,000*)
*Amount of severance payment required to be made under the Employment Ordinance
= (\$12,000 x 2/3 x 8) - \$50,000
= \$14,000
- (Note: If an employee ceased to be employed during the reporting year, Form IR56B should not be completed. Instead, **Form IR56F** should be completed and filed for the employee not later than 1 month before the date of cessation. You may file **Form IR56F** electronically using GovHK (www.gov.hk/etax), download **Form IR56F** at www.ird.gov.hk or obtain it from the 'Fax-A-Form' Service at 2598 6001 (select the language and press keys (3)(2)(3)).

7. Item 11(g) Certain Payments from Retirement Schemes

(a) Occupational Retirement Scheme

The following payments from occupational retirement scheme should be reported :-

- (i) Unrecognized scheme : so much of any amount received as is attributable to the employer's contributions.
- (ii) Recognized scheme [ORSO scheme]: so much of any amount received by reason **other than** termination of service, death, incapacity, terminal illness or retirement as is attributable to 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 which is attributable to 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.

(b) Mandatory Provident Fund Scheme (MPF Scheme)

The following payments from MPF Scheme should be reported :-

- (i) so much of any amount received by reason **other than** termination of service, death, incapacity, terminal illness or retirement as is attributable to 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 been received over the proportionate benefit as defined in section 8(4) and (5) of the Inland Revenue Ordinance which is attributable to the employer's **voluntary** contributions.

* Upon termination of service, if the employee chooses to retain his accrued benefits as is attributable to the employer's **voluntary** contributions 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 proportionate benefit rule needs to be considered and the excess amount should be reported.

(c) Proportionate Benefit Rule

- (i) The proportionate benefit rule is used to determine the amount to be reported where an employee terminates employment and receives (or is taken to have received) benefits from an ORSO Scheme or a MPF Scheme. The rule provides that if an employee has worked for less than 10 years for an employer, the amount received or taken to have been received under the scheme, upon termination of service, in respect of the employer's **voluntary** contributions is exempt to the following extent :-

$$\text{Accrued benefit under the scheme} * \times \frac{\text{completed months of service}}{120}$$

* For a MPF Scheme, the accrued benefit is equal to the employer's **voluntary** contributions and the investment return attributable to the employer's **voluntary** contributions. For an ORSO Scheme, the accrued benefit is equal to the employer's contributions and the investment return attributable to the employer's contributions.

For example, where :-

- the accrued benefit received under an ORSO Scheme or a MPF Scheme is \$100,000
- the number of completed months of service is 72

The proportionate benefit would be -

$$\$100,000 \times 72/120 = \$60,000$$

Accordingly, the amount to be reported at item 11(g) would be: Amount received – Proportionate Benefit

$$= \$100,000 - \$60,000 = \$40,000$$

- (ii) In relation to the proportionate benefit rule, it is the length of service with the employer and not the length of scheme membership that is taken into account in the calculation of the benefit.
- (iii) If the employer is not chargeable to Profits Tax, you may read paragraphs 51 and 52 of the Departmental Interpretation and Practice Notes No. 23 "Recognized Retirement Schemes" at www.ird.gov.hk/eng/pdf/dipn23.pdf in ascertaining the amount of employee's taxable accrued benefits to be reported.

8. Item 11(i) Education Benefits

Education benefits are any amounts paid by an employer in connection with the education of an employee's child / children.

9. Item 11(j) Gain realized under Share Option Scheme

- (a) If, during the reporting year, an employee or a director **exercised, assigned or released** any share option granted by the employer or by any other corporation in respect of his / her employment with or office in the employer, any resulting gain calculated in accordance with section 9(4) of the Inland Revenue Ordinance ("share option gain") should be reported here.
- (b) Any share option gain realized by a **former employee or a former director** during the reporting year should also be reported here. If there was only one exercise, assignment or release transaction, the date of transaction should be shown as both the start date and the end date at item 10. If there were more than one transaction, the date of the first transaction should be shown as the start date and the date of the last transaction should be shown as the end date at item 10. A list should be provided, containing the following information in respect of each such former employee or former director :-
 - (i) name and HKIC no. / passport no.; and (ii) the sheet number of Form IR56B.
- (c) If an employee or a director was **granted** a share option by the employer or by any other corporation in respect of his / her employment with or office in the employer during the reporting year, a list should be provided, containing the following information in respect of each such employee or director :-
 - (i) name and HKIC no. / passport no.; (ii) name of the corporation in respect of which the option was granted; and (iii) the number of shares subject to the option.

10. Item 11(k) Any other Rewards, Allowances or Perquisites

The amount to be reported here should include any :-

- (a) perquisites in cash or of such a nature that either they may be converted into cash or are money's worth. Examples are motor car as a gift, award of shares, etc.;
- (b) cash allowances for food, travelling, servants, housing, cost of living, etc.;
- (c) "Dim Yung" commission;
- (d) payment or reimbursement by the employer of personal expenses contracted and incurred by the employee;
- (e) tips, including sums known by the employer to have been received by the employee from other persons; and
- (f) amount paid by the employer for holiday journey benefits enjoyed by the employee or his family members.

11. Item 11(l) Pensions

Only pensions paid by the employer should be included here.

12. Item 12 Place of Residence provided

- (a) A place of residence provided includes places where all or part of the rent paid by employees has been refunded, and details must be shown on whether the place was provided by the employer or an associated corporation. For the purposes of this note, 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 holding shares or by means of powers granted, to conduct the affairs of the corporation in accordance with his / her wishes.
- (b) Where two or more employees shared the place of residence provided, please include a note to that effect at item 14 of Form IR56B.
- (c) If more than two places of residence were provided, please supply the details in the same format on a separate sheet.
- (d) Regarding how housing benefit would be assessed under the employee's Salaries Tax, you may read the pamphlet "How to tax the provision of a place of residence to the employee" at www.ird.gov.hk/eng/pdf/pam44e.pdf.

13. Item 13 Payment by a non-Hong Kong company

The amount to be reported is the amount paid by the non-Hong Kong company. However, this sum **MUST** also be included at item 11 of Form IR56B (See Note 3(a) above).

14. Further Information

- (a) Specimens of completed Form BIR56A and Form IR56B can be viewed at www.ird.gov.hk/eng/tax/ere.htm#A02, or obtained through the 'Fax-A-Form' Service at 2598 6001 (select the language and press keys (3) (7));
- (b) For further information or assistance, you may:-
 - (i) visit www.ird.gov.hk and view the related information under "Tax Information : Employers";
 - (ii) write (G.P.O. Box 132 Hong Kong) or fax (2877 1232) to the Assessor, quoting your file number and contact telephone number;
 - (iii) telephone 187 8022; or
 - (iv) call at the Central Enquiry Counter on 1/F of the Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong.