

# Obligations of An Employer

## Statutory obligations of an employer to report remuneration paid to an employee

| Employment Condition                  | Form to Complete | Statutory Period for Notification  | Reference in Inland Revenue Ordinance ("IRO") | Remarks   |
|---------------------------------------|------------------|--|---|---|
| Commencement of employment            | IR56E            | Within 3 months  | section 52(4)                                 | Both IR56E & IR56B are required for the commencement year |
| Still under employment as at 31 March | IR56B            | Within 1 month   | section 52(2)                                 | Must be submitted annually together with a BIR56A         |
| Cessation of employment               | IR56F            | Not later than 1 month before cessation                                      | section 52(5)                                 | IR56B for the cessation year is not required              |
| Departure from Hong Kong              | IR56G            | Not later than 1 month before departure and withhold money for tax clearance | sections 52(6) & 52(7)                        | IR56B for the cessation year is not required              |

Failure to comply with the above requirements is a serious offence which carries penalty of a **fine of \$10,000**.

### Reporting remuneration paid to an employee

Depending on the employment condition as prescribed in the table above, IR56B, IR56E, IR56F or IR56G (as appropriate) should be completed and filed for the relevant year of assessment for each of the following persons: -

- 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 (if employed for less than a year, a proportionately reduced amount);
- directors, married persons and part-time employees who were likely to have other income chargeable to Salaries Tax for the year, irrespective of the amount paid and whether resident in Hong Kong or not;
- employees of any non-Hong Kong company who were assigned or seconded to your company during the year for duties in or outside Hong Kong;
- persons to whom a pension was paid or accrued during the year. In case of those pensioners who have left Hong Kong permanently, only pensions in excess of the basic allowance of the relevant year need to be reported; or
- former employees and former directors who, during the year, 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 those former employees who did not have any other income chargeable to Salaries Tax for the year, only the gain realized in excess of the basic allowance of the relevant year needs to be reported. If share awards are vested in an employee after cessation of employment, an amendment to the IR56 form previously filed should be made by either filing a "Replacement" or a written notification of amendment.

### Reporting remuneration paid to persons other than an employee

#### (1) Local persons (Form IR56M)

If a company pays commission, fees or other remuneration to the following local individuals who are not the company's employees or unincorporated businesses: -

- sub-contractors exceeding \$200,000 per annum; or
- consultants, agents, brokers, freelance artistes, entertainers, sportsmen, writers, freelance guides, etc. in excess of \$25,000 per annum.

IR56M should be filed for each of the recipients together with the declaration form IR6036B.

#### (2) Non-resident entertainers/sportsmen (Form IR623)

Where payments are made to non-resident entertainers/sportsmen for any performance in Hong Kong, the sponsor or agent has to comply with the following requirements: -

- notify this Department via IR623 immediately when the non-resident arrives in Hong Kong; and
- withhold an amount from payments made to the non-resident sufficient to produce the amount of tax due in accordance with sections 20A and 20B of the IRO and inform this Department accordingly.

#### (3) Non-resident professionals (Form IR623P)

A payer may submit Form IR623P to report sums payable to non-resident individuals who are engaged to provide services or exercise profession in Hong Kong, not in the capacity as employees. Examples include non-resident individuals rendering services in Hong Kong as arbitrators, consultants, visiting counsel and lecturers.

### Further Information and Assistance

If you need further information or assistance, you may : –

- visit the Department's website at [www.ird.gov.hk](http://www.ird.gov.hk);
- obtain specimens of completed Employer's returns and notifications through the Department's website at [www.ird.gov.hk/eng/tax/ere.htm#02\\_2](http://www.ird.gov.hk/eng/tax/ere.htm#02_2) or the 'Fax-A-Form' Service (2598 6001);
- download forms IR56B/E/F/G/M, IR6036B, IR623 and IR623P from the Department's website at [www.ird.gov.hk/eng/paf/for.htm](http://www.ird.gov.hk/eng/paf/for.htm) or obtain the forms from the 'Fax-A-Form' Service (2598 6001)<sup>Note</sup> (Form must be printed on white plain A4 size paper);
- write (G.P.O. Box 132, Hong Kong) or fax (2877 1232) to the Assessor, quoting your Employer's File Number and day-time contact telephone number;
- telephone 187 8022; or
- call in person at the Central Enquiry Counter on G/F of Inland Revenue Centre, 5 Concorde Road, Kai Tak, Kowloon, Hong Kong.

Note: Form IR623P is not available from 'Fax-A-Form' Service.