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# Inland Revenue (Amendment) (Tax Deductions for Assisted Reproductive Service Expenses) Ordinance 2025

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

**ORDINANCE NO. 2 OF 2025**



John KC LEE  
Chief Executive  
27 February 2025

An Ordinance to amend the Inland Revenue Ordinance to introduce a new concessionary deduction concerning salaries tax and tax under personal assessment that may be allowed for assisted reproductive service expenses; and to provide for related matters.

[28 February 2025]

Enacted by the Legislative Council.

**1. Short title**

This Ordinance may be cited as the Inland Revenue (Amendment) (Tax Deductions for Assisted Reproductive Service Expenses) Ordinance 2025.

**2. Inland Revenue Ordinance amended**

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 10.

**3. Part 4A, Division 9 added**

Part 4A, after Division 8—

**Add**

## “Division 9—Assisted Reproductive Service Expenses

### 26ZD. Application

This Division applies in relation to the year of assessment commencing on 1 April 2024 and to all subsequent years of assessment.

### 26ZE. Interpretation

(1) In this Division—

**Cap. 561** (《第 561 章》) means the Human Reproductive Technology Ordinance (Cap. 561);

**code** (守則) has the meaning given by section 2(1) of Cap. 561;

**gametes obtaining procedure** (取得配子程序) means a procedure mentioned in paragraph (c) of the definition of **reproductive technology procedure** in section 2(1) of Cap. 561;

**qualifying AR service** (合資格輔助生育服務)—see section 26ZF;

**qualifying AR service expenses** (合資格輔助生育服務開支) means any expenses payable for receiving a qualifying AR service;

**recipient** (接受對象), in relation to an RT procedure or service, means the person to whom the procedure or service is or is to be provided, and **receive** (接受) is to be construed accordingly;

**RT procedure** (生殖科技程序) means a reproductive technology procedure as defined by section 2(1) of Cap. 561.

(2) For the purposes of this Division, if—

- (a) Cap. 561 (as read together with the code) does not prohibit an RT procedure (other than a gametes obtaining procedure) to be provided to a person;
- (b) the person is the person or one of the persons mentioned in paragraph (a)(ii) of the definition of *surrogate mother* (in section 2(1) of Cap. 561) (*commissioning person or persons*) in so far as a surrogacy arrangement (as defined by that section) is concerned; and
- (c) a qualifying AR service is or is to be provided, pursuant to the arrangement, to the woman who is to be the surrogate mother (as defined by section 2(1) of Cap. 561) under the arrangement,

the service is taken to be a service provided or to be provided to the commissioning person or persons, and is not a service provided or to be provided to the woman.

#### **26ZF. Meaning of *qualifying AR service***

- (1) For the purposes of this Division, the following are qualifying AR services—
  - (a) a service of providing either of the following RT procedures pursuant to an RT licence (including a medical service related to such a procedure)—
    - (i) an RT procedure (other than a gametes obtaining procedure);
    - (ii) a gametes obtaining procedure in relation to which either of the conditions specified in subsection (2) is met;

- (b) a service, in relation to which either of the conditions specified in subsection (2) is met, of the handling, storing or disposing of gametes or an embryo (used or intended to be used in connection with an RT procedure) pursuant to an RT licence.
- (2) The conditions are as follows—
- (a) that Cap. 561 (as read together with the code) does not prohibit an RT procedure (other than a gametes obtaining procedure) to be provided to the recipient of the service;
  - (b) that the recipient of the service is a cancer patient, or any other patient, who may be rendered infertile as a result of chemotherapy, radiotherapy, surgery or other medical treatment.
- (3) For the purposes of subsection (1)(a), subject to subsection (4), a medical service is related to an RT procedure falling within subsection (1)(a)(i) or (ii) (***qualifying procedure***) if it is a medical service that—
- (a) is directly related to the qualifying procedure;
  - (b) is provided—
    - (i) before the qualifying procedure is to be provided, so long as—
      - (A) Cap. 561 (as read together with the code) does not prohibit an RT procedure (other than a gametes obtaining procedure) to be provided to the recipient of the medical service; or

- (B) if the qualifying procedure is a gametes obtaining procedure and the condition specified in sub-subparagraph (A) is not met in relation to the medical service—the recipient of the medical service is a cancer patient, or any other patient, who may be rendered infertile as a result of chemotherapy, radiotherapy, surgery or other medical treatment; or
  - (ii) during or after the qualifying procedure is provided; and
  - (c) is provided, prescribed or referred by a registered medical practitioner who holds any clinical responsibility for the recipient of the qualifying procedure for the procedure.
- (4) For the purposes of subsection (3), if—
  - (a) gametes are, or an embryo is, placed in the body of a woman pursuant to a qualifying procedure; and
  - (b) subsequently, the establishment of (or the failure to establish) a clinical pregnancy of the woman is ascertained,  
a medical service provided to the woman after the ascertainment is not related to the qualifying procedure.

- (5) In this section—

*medical service* (醫療服務) includes counselling service;

*registered medical practitioner* (註冊醫生) has the meaning given by section 2(1) of the Medical Registration Ordinance (Cap. 161);

***RT licence*** (生殖科技牌照) means any of the following licences as defined by section 2(1) of the Human Reproductive Technology (Licensing) Regulation (Cap. 561 sub. leg. A)—

- (a) an AIH licence;
- (b) a storage licence;
- (c) a treatment licence;

***store*** (儲存), in relation to gametes or an embryo, means to store the gametes or embryo within the meaning of Cap. 561.

### **26ZG. Deduction for qualifying AR service expenses**

- (1) Subject to subsection (2) and sections 26ZH and 26ZI, a deduction in respect of the qualifying AR service expenses paid during a year of assessment is allowable to a person for the year of assessment if the expenses—
  - (a) were paid by—
    - (i) the person;
    - (ii) the person's spouse, not being a spouse living apart from the person; or
    - (iii) the person and the person's spouse, not being a spouse living apart from the person; and
  - (b) were paid for qualifying AR services received by—
    - (i) the person;
    - (ii) the person's spouse; or
    - (iii) the person and the person's spouse.

- (2) The maximum deduction allowable to a person under subsection (1) for a year of assessment is the amount specified in Schedule 3H in relation to the year of assessment.

**26ZH. Claim of deduction by married persons**

- (1) This section applies in relation to a deduction under section 26ZG claimed by a married person or the person's spouse or both of them in respect of the qualifying AR service expenses paid by either or both of them during a year of assessment.
- (2) The qualifying AR service expenses paid is allowable as a deduction under section 26ZG to—
  - (a) the married person;
  - (b) the person's spouse; or
  - (c) both the person and the person's spouse,so long as the total deduction allowed to them under section 26ZG does not exceed the amount specified in Schedule 3H in relation to the year of assessment, and does not exceed the aggregate amount of the qualifying AR service expenses paid in the year of assessment.
- (3) Even if a person is married in more than one marriage during a year of assessment, the maximum deduction allowable to the person under section 26ZG for the year of assessment must not exceed the amount specified in Schedule 3H in relation to the year of assessment.
- (4) If the Commissioner has reason to believe that the total deduction under section 26ZG claimed by a person and the person's spouse for a year of assessment, if allowed, would be contrary to

subsection (2) or (3), the Commissioner may, for ensuring that the total deduction allowed to them would accord with that subsection, allow an amount of deduction to each of them that is reasonable in the circumstances of the case.

- (5) If the Commissioner has exercised a power under subsection (4)—
  - (a) the person may apply for an adjustment of the amount of deduction allowed to the person;
  - (b) the person's spouse may apply for an adjustment of the amount of deduction allowed to the spouse; or
  - (c) both the person and the person's spouse may apply for an adjustment of the amount of deduction allowed to each of them.
- (6) The application must—
  - (a) be made to the Commissioner in writing; and
  - (b) be made within 6 months after—
    - (i) the date on which a deduction under section 26ZG is allowed to the person for the year of assessment; or
    - (ii) the date on which a deduction under that section is allowed to the person's spouse for the year of assessment,whichever is the later.
- (7) On an application under subsection (5), the Commissioner may—
  - (a) if—
    - (i) the application relies on an agreement reached between the person and the

person's spouse regarding how the amount of deduction under section 26ZG is to be allowed to each of them for the year of assessment; and

- (ii) the Commissioner is satisfied that adjusting the amount of deduction that the application concerns (*subject amount*) in accordance with the agreement would result in a total deduction for the person and the person's spouse that accords with subsections (2) and (3),

adjust the subject amount in accordance with the agreement; or

- (b) in any other case—exercise a power specified in subsection (9).
- (8) The Commissioner may also, on the Commissioner's own initiative, exercise a power specified in subsection (9) if deductions have been allowed to a person and the person's spouse contrary to subsection (2) or (3).
- (9) For the purposes of subsections (7)(b) and (8), the Commissioner may—
- (a) invite the person and the person's spouse to reach an agreement that would result in a total deduction for them that accords with subsections (2) and (3); and
  - (b) adjust the amount of deduction allowed to the person or the person's spouse (or each of them) in consequence of—
    - (i) such an agreement being reached by them within a reasonable time; or

- (ii) their failure to reach such an agreement within a reasonable time,  
as may be appropriate in the circumstances.
- (10) The Commissioner may decide the way in which an adjustment under subsection (7)(a) or (9)(b) is to be made, including by way of—
  - (a) discharge or repayment of tax; or
  - (b) making an assessment.
- (11) The Commissioner may make an adjustment under subsection (7)(a) or (9)(b) despite any time limit for making such an adjustment under this Ordinance.

**26ZI. Refund or reimbursement of qualifying AR service expenses paid**

- (1) This section applies if any qualifying AR service expenses paid during a year of assessment are refunded or reimbursed.
- (2) The qualifying AR service expenses paid are taken to be reduced by the refunded amount or reimbursed amount.
- (3) In addition, if the refund or reimbursement is made after a person claims a deduction under section 26ZG in respect of the qualifying AR service expenses—
  - (a) the person must notify the Commissioner in writing of the refund or reimbursement within 3 months after the date of refund or reimbursement; and

- (b) if the deduction has been allowed, then, despite any time limit for making an additional assessment under section 60, an assessor may, having regard to the reduction, make an additional assessment on the person under that section.

**26ZJ. Exercise of Commissioner’s power**

The Commissioner may exercise a power under this Division in the way that the Commissioner, having regard only to the information then in the Commissioner’s possession, considers appropriate.”.

**4. Section 63CA amended (calculating net chargeable income for computing provisional salaries tax: meaning of certain references)**

- (1) Section 63CA(3)(e)(ii)—

**Repeal**

“and”.

- (2) Section 63CA(3)(f)(ii)—

**Repeal the full stop**

**Substitute**

“; and”.

- (3) After section 63CA(3)(f)—

**Add**

“(g) the deduction under section 26ZG (deduction for qualifying AR service expenses) allowable to that person not exceeding the amount specified in Schedule 3H for the relevant year of assessment.”.

- (4) Section 63CA(4)(e)(ii)—

**Repeal**

“and”.

- (5) Section 63CA(4)(f)(ii)—

**Repeal the full stop**

**Substitute**

“; and”.

- (6) After section 63CA(4)(f)—

**Add**

“(g) the deduction under section 26ZG (deduction for qualifying AR service expenses) allowable to them not exceeding the amount specified in Schedule 3H for the relevant year of assessment.”.

**5. Section 63E amended (holding over of payment of provisional salaries tax)**

- (1) After section 63E(2)(bg)—

**Add**

“(bh) that the person assessed to provisional salaries tax, or the person’s spouse (not being a spouse living apart from the person), or both of them, has or have paid, or is or are likely to pay, during the year of assessment, qualifying AR service expenses (as defined by section 26ZE(1)) that—

(i) are allowable for deduction under section 26ZG; and

(ii) in total, exceed or are likely to exceed the amount specified in Schedule 3H for the year preceding the year of assessment;”.

- (2) Section 63E(2B)—

**Repeal**

“or (bg)”

**Substitute**

“, (bg) or (bh)”.

**6. Section 80 amended (penalties for failure to make returns, making incorrect returns, etc.)**

After section 80(2)(cc)—

**Add**

“(cd) fails to comply with section 26ZI(3)(a);”.

**7. Section 82A amended (additional tax in certain cases)**

(1) After section 82A(1)(cc)—

**Add**

“(cd) fails to comply with section 26ZI(3)(a); or”.

(2) Section 82A(4)(a)(i)(A)—

**Repeal**

“or 26ZB(3)(a)”

**Substitute**

“, 26ZB(3)(a) or 26ZI(3)(a)”.

**8. Section 89 amended (transitional provisions or other provisions having effect for purposes of amendments to this Ordinance)**

Section 89—

**Add**

“(33) Schedule 60 has effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment commencing on 1 April 2024.”.

**9. Schedule 3H added**

After Schedule 3G—

**Add**

**“Schedule 3H**

[ss. 26ZG, 26ZH,  
63CA & 63E]

**Maximum Deduction for Qualifying AR Service Expenses**

Column 1	Column 2	Column 3
Item	Year of assessment	Amount
1.	For the year of assessment 2024/25 and for each year after that year	\$100,000”.

**10. Schedule 60 added**

The Ordinance—

**Add**

**“Schedule 60**

[s. 89(33)]

**Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2024/25**

**1. Interpretation**

In this Schedule—

*year of assessment 2024/25* (2024/25 課稅年度) means the year of assessment commencing on 1 April 2024.

**2. Application for holding over payment of provisional salaries tax on additional ground**

- (1) A person who is liable to pay provisional salaries tax in respect of the year of assessment 2024/25 may apply to the Commissioner to have the payment of the whole or part of the tax held over until the person is required to pay salaries tax for the year.
- (2) An application may be made under subsection (1) if, for the year of assessment 2024/25, a deduction under section 26ZG is, or is likely to be, allowable to the person mentioned in that subsection.
- (3) This section does not affect the operation of section 63E.

**3. Provisions supplementary to section 2 of this Schedule**

- (1) This section applies to an application under section 2 of this Schedule.
- (2) The application must be made in writing.
- (3) The application must be made not later than—
  - (a) the 28th day before the day by which the provisional salaries tax is to be paid; or
  - (b) the 14th day after the date of the notice for payment of provisional salaries tax under section 63C(6),whichever is the later.
- (4) However, the Commissioner may, if satisfied that it is appropriate, either generally or in a particular case, postpone the deadline.

- (5) On receipt of the application, the Commissioner—
  - (a) must consider the application; and
  - (b) may hold over the payment of the whole or part of the provisional salaries tax.
- (6) The Commissioner must, by notice in writing, inform the applicant of the Commissioner’s decision.”.