

HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE NO. 34 OF 2003**
L.S.

Donald TSANG
Acting Chief Executive
13 November 2003

An Ordinance to amend certain Ordinances to give effect to some of the proposals in the Budget introduced by the Government for the 2003–2004 financial year.

[14 November 2003]

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Revenue (No. 3) Ordinance 2003.

2. Application

Sections 3 to 6 apply in relation to the year of assessment commencing on 1 April 2003 and to all subsequent years of assessment.

Inland Revenue Ordinance

3. Qualifying debt instruments

Section 14A of the Inland Revenue Ordinance (Cap. 112) is amended—

- (a) in subsection (1)(a) and (b), by adding “medium term” before “debt instrument”;
- (b) in subsection (4)—
 - (i) by repealing “In this Part, “debt” and substituting—
“In this section—
“debt”;
 - (ii) in the definition of “debt instrument”—
 - (A) by repealing paragraph (c);
 - (B) in paragraph (f), by repealing “subsection” and substituting “definition”;
 - (C) in paragraph (g), by repealing the full stop at the end and substituting a semicolon;

(iii) by adding—

““medium term debt instrument” (中期債務票據) means—

(a) a debt instrument that—

(i) is issued before 5 March 2003;

(ii) has an original maturity of not less than 5 years or is undated; and

(iii) cannot be redeemed within 5 years from the date of its issue; or

(b) a debt instrument that—

(i) is issued on or after 5 March 2003;

(ii) has an original maturity of less than 7 years but not less than 3 years or is undated; and

(iii) can be redeemed within 7 years from the date of its issue but not within the first 3 years.”;

(c) in subsection (5)—

(i) in paragraph (a), by repealing “subsection (4)(b)” and substituting “paragraph (b) of that definition”;

(ii) in paragraph (b), by repealing “subsection (4)(d)(i) or (ii), as the case may be” and substituting “paragraph (d)(i) or (ii), as the case may be, of that definition”.

4. Exclusion of certain profits from tax

Section 26A is amended—

(a) in subsection (1)—

(i) in paragraph (f), by repealing “and” at the end;

(ii) in paragraph (g), by repealing the comma at the end and substituting a semicolon;

(iii) by adding—

“(h) interest paid or payable on a long term debt instrument; and

(i) any gain or profit on the sale or other disposal or on the redemption on maturity or presentment of a long term debt instrument,”;

(b) in subsection (2), by adding—

““long term debt instrument” (長期債務票據) means a debt instrument as defined in section 14A that—

(a) is issued on or after 5 March 2003;

(b) has an original maturity of not less than 7 years or is undated; and

- (c) cannot be redeemed within 7 years from the date of its issue;”.

Inland Revenue (Qualifying Debt Instruments) Order

5. Credit rating requirement not to apply

Section 1 of the Inland Revenue (Qualifying Debt Instruments) Order (Cap. 112 sub. leg. M) is amended by repealing “section 14A(4)(b)” and substituting “paragraph (b) of the definition of “debt instrument” in section 14A(4)”.

6. Minimum denomination

Section 2 is amended by repealing “section 14A(4)(d)(i)” and substituting “paragraph (d)(i) of the definition of “debt instrument” in section 14A(4)”.

Stamp Duty Ordinance

7. Section added

The Stamp Duty Ordinance (Cap. 117) is amended by adding in Part V—

**“47B. Instruments of transfer relating to indirect
allotment or redemption of
units to be exempt**

(1) Where a person is deemed under section 30(3) to transfer a unit under a unit trust scheme and, in relation to that transfer, an instrument is deemed under that section to be a transfer by way of sale falling within head 2(4) in the First Schedule, if that transfer is one to which section 19(1) does not apply by virtue of section 19(1A)(b)(ii), that instrument is not chargeable with stamp duty.

(2) Where a person is deemed under section 30(4) to transfer a unit under a unit trust scheme, if that transfer is one to which section 19(1) does not apply by virtue of section 19(1A)(a), the instrument that is deemed under section 30(4) to be a transfer of the unit is not chargeable with stamp duty.

(3) Where a person is deemed under section 30(5) to transfer a unit under a unit trust scheme, if that transfer is one to which section 19(1) does not apply by virtue of section 19(1A)(b)(i), the instrument that is deemed under section 30(5) to be a transfer of the unit is not chargeable with stamp duty.”.

8. First Schedule amended

The First Schedule is amended—

- (a) within the square brackets, by repealing “& 45” and substituting “, 45 & 47B”;
- (b) in head 2(4), by repealing “and 47A” and substituting “, 47A and 47B”.