



創於1913年  
Founded in 1913

# 香港華人會計師公會

## The Society of Chinese Accountants & Auditors

(在香港註冊成立之有限公司)

(Incorporated in Hong Kong as a company limited by guarantee)

3 February 2017

Mr. Chan Mo-Po, Paul  
The Financial Secretary  
Government of the Hong Kong Special Administrative Region  
The People's Republic of China

Dear Sir,

### **Budget Submission**

The Society of Chinese Accountants and Auditors was formed in 1913 and incorporated in 1948. The CPA firms of which our members are partners, directors or managers, service a significant majority of businesses in Hong Kong, and also companies investing into or through Hong Kong. Our members directly and regularly communicate with clients, their directors and employees and consequentially understand their needs and concerns.

In the coming year, Hong Kong and the whole world will be facing unsure economic future. It is with this in mind that we herewith submit our suggestions for your consideration.

### **A. CARE FOR FAMILIES IN HONG KONG** **RELAXING THE ENTITLEMENT TO ADDITIONAL DEPENDENT PARENT AND** **DEPENDANT GRANDPARENT ALLOWANCES**

At present, Additional Dependent Parent and Dependent Grandparent Allowances can only be claimed by taxpayers living together with their parents or grandparents. We fully appreciate that this special requirement aims at encouraging the younger generation to take care of their parents and/or grandparents. However, with the high property prices, the floor area affordable by the younger generation gets smaller and smaller. Apartments in Hong Kong are getting tinier and tinier. Forcing the younger and the elder generations to live together in small apartments may create tensions between the generations and therefore lead to other social problems. There is a Chinese saying, "its fine to meet each other but difficult to live together" ("相見好, 同住難"). Many taxpayers choose to rent or purchase separate quarters for their parents/grandparents.

### **RECOMMENDATIONS –**

- Extending Additional Dependent Parent and Dependent Grandparent Allowances to taxpayers who have provided living quarters for their parents and/or grandparents, either by renting or purchasing separate properties.



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- Taking reference from “Portable Comprehensive Social Security Assistance (PCSSA) Scheme (綜援長者廣東及福建省養老計劃)” launched by Social Service Department, allowance recipients who choose to take up permanent residence in Guangdong or Fujian which is place with lower cost of living could also be granted such allowances.

### **B. MUTUAL BENEFITS FOR HONG KONG SOCIETY AND WOMEN EMPOWERING & EQUALITY FOR WORKING MOTHERS**

To mitigate the consequences of an ageing population and shrinking labour force, the Government is seeking methods to increase working population. We propose to introduce the following measures to encourage women to remain in or rejoin the workforce.

Most female homemakers who gave up their career to devote to their families possess high education level and precious working experience that can be valuable manpower resources. Some grassroots female homemakers who shoulder family burdens lack the incentive to work and to seek subsidies from the Government. With the support from the Government, employers can attract talents and alleviate manpower shortages and Government's financial burden on public expenditure such as Comprehensive Social Security Assistance (CSSA) can be lightened.

#### **RECOMMENDATIONS –**

- Providing infrastructure support for families with both parents working, such as childcare service and flexible workplace arrangements;
- Additional Childcare Allowances for extra help needed by a working mother;
- Allow 150% tax deduction for expenditure of employers spent on renovations (e.g. breast feeding areas, etc.) made to work environment to support young working mothers;
- Setting up a special Parental Program Fund so that, similar to other countries like Canada, UK or Singapore, etc., maternity payments can be paid by the special Fund instead of it being shouldered solely by individual employers. This will help to alleviate the inequality and discrimination against female employees and also help to encourage more women to rejoin the work force;
- Allowing separate taxation for married couples under Personal Assessment. Presently, if a person is married and both spouses have income, both spouses have to elect for personal assessment jointly, the total income is aggregated with that of the spouse to arrive at the joint total income of the couple for assessment. We propose that any single spouse should be allowed to claim for Personal Assessment singly, similar to an unmarried taxpayer.





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### C. CARE FOR THE NEEDY

#### INTRODUCING "DISABLED PERSON'S ALLOWANCE" FOR DISABLED SALARIED PERSONS

While taxpayer is given additional allowances for maintaining disabled dependents, he is not given similar allowance if he himself is a disabled person. To encourage disabled persons to rejoin the workforce and to enhance their self-esteem, we propose to introduce a new "Disabled Person's Allowance".

#### RECOMMENDATIONS –

- Introducing a new "Disabled Person's Allowance" for disabled taxpayers. Disabled person who is employed and salaried in Hong Kong can be granted such allowance.

### D. RELIEF MEASURES ON HOUSING

#### INCREASING THE TIME LIMIT AND THE MAXIMUM AMOUNT OF HOME LOAN INTEREST

As a result of the sky-rocketing property prices in recent years, taxpayers can hardly finance the purchase of properties with 10-year mortgage terms. Although property prices are expected to decline, the present property prices still pose difficulties for young couples. In addition, under the current Quota and Points System of Housing Department of HKSAR, even eligible citizens find it extremely difficult to apply for public rental housing. To assist them on their home purchases and to relieve the burden of middle income earners on home mortgage loan, the home loan interest deduction should be reviewed.

#### RECOMMENDATIONS –

- Extending the entitlement of home loan interest deduction to 25 years.

### E. PROMOTING CORPORATE SOCIAL RESPONSIBILITIES

#### CHARITABLE DONATIONS

Donations to charitable institutions may partially release the financial burden on the Government to additional demands from the education and social welfare sectors during years of economic downturns. The present tax deduction provision however discourages regular donors to continue to contribute to these social responsibilities in a loss year or when profit for the year decreased drastically in any year.



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### RECOMMENDATIONS –

- Hiking the percentage threshold of the donation to 50% of the assessable profit of the taxpayer for approved charitable donations;
- Allowing deductible donations to be able to be carried forward in the year when the taxpayer incurred losses. In the circumstances, the allowable donations may be limited to the donations made by the taxpayer in the past 5 years.

### F. PROVIDING A MORE FAVOURABLE TAX ENVIRONMENT GROUP LOSS RELIEF AND LOSS CARRY-BACK

There have been public outcries for group loss relief and loss carry-back for many years. We believe that it is time for the Government to respond to the public's requests.

Our neighboring areas, such as Singapore and Japan, have adopted group loss relief or similar system. Hong Kong has placed itself in a global tax and economic disadvantage in comparison with our competitors.

Taxpayers are obliged to pay tax on profit made during a year. However, loss results in subsequent years cannot be carried backward and will be forfeited upon cessation of business. In order to assist small and medium enterprises to survive through the current unstable economic conditions and to provide a more favourable tax environment to attract potential investors, we suggest that the Government should consider granting tax relief for carrying back losses.

### RECOMMENDATIONS –

- Introducing new legislation allowing group loss transfer;
- Allowing current year loss to be carried back for setting off the profits of the last two years.

### G. CORPORATE TREASURY CENTRE EXEMPTING COMPANIES WITH OFFSHORE INTEREST INCOME FROM THE DEEMING PROVISION OF SECTION 15(1) (IA)

The Government introduced new rules designed to attract multinational groups to establish their corporate treasury centres (CTCs) in Hong Kong to provide centralized treasury management services to companies in their groups. The legislation provides a 50%





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reduction on profits tax rate (i.e. 8.25%) and allow an interest deduction for qualifying interest. Nevertheless, the new legislation section 15(1)(ia) also deems interest income from intra-group financing activities carried out in Hong Kong to be taxable in Hong Kong notwithstanding that such interest income is offshore sourced according to the provision of credit test.

### RECOMMENDATIONS –

- The deeming provision of section 15(1) (ia) has the unintended effect of putting those companies with offshore interest income (by operation of provision of credit test) from loans to overseas group companies at risk. We suggest the IRD, by way of concession, agree not to use this section to tax those companies with offshore interest income by operation of provision of credit test in the past as this is not what the legislation intends to achieve. For the sake of consistency, the interest expense of these companies exempt by way of concession, should not be allowed tax deduction by virtue of the new 16(2) (g).

### H. RELIEF FOR SMEs APPLYING FOR HK TAX RESIDENT CERTIFICATE

We understand that the escalated HKIRD examination on the HK tax resident status is required by overseas tax authorities for the compliance with Base Erosion and Profits Shifting Action No. 6 – Prevent Treaty Abuse. It is more than a form filling exercise because much information and documentary evidence of the business operation need to be disclosed, adding a lot of cost and burden to SMEs.

### RECOMMENDATIONS –

- We suggest the process should be streamlined to expedite the issuance of Tax Resident Certificates.

### I. REVIEW OF HONG KONG TAX SYSTEM MAINTAINING TAX NEUTRALITY, EQUITY AND SIMPLICITY

Neutrality, equity and simplicity are general tax principles emphasized by Adam Smith in his well-known book: "The Wealth of Nation". They have been adopted by tax administrations around the world in formulating their policy. It is our submission that there are provisions in the Inland Revenue Ordinance which are not consistent with the neutrality and equity principles.



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S. 16 of the Inland Revenue Ordinance (“IRO”) provides that *“In ascertaining the profits in respect of which a person is chargeable to tax under this Part for any year of assessment there shall be deducted all outgoings and expenses to the extent to which they are incurred during the basis period for that year of assessment by such person in the production of profits in respect of which he is chargeable to tax.....”* (emphasis added)

However, the provisions for outgoings and expenses deductions for taxpayers that pay Property Tax and Salaries Tax are different.

### Property Tax

Whilst section 16 of the IRO allows taxpayers subject to Profits Tax to deduct ALL outgoings and expenses incurred in the production of assessable profits, property owners are only allowed to deduct 20% of the assessable value in computing the net assessable value subject to Property Tax.

With the introduction of the Mandatory Building Inspection Scheme, Mandatory Window Inspection Scheme, etc., an allowance of 20% for repairs and outgoings may no longer be able to cover the expenses incurred in producing the rental income. As a result there were taxpayers appealing to the Board of Review seeking for deduction of the actual cost incurred or to report their rental income under Profits Tax.

### Salaries Tax

Taxpayers chargeable to Salaries Tax are also facing similar unfair treatment.

S.12 (1) (a) of the IRO stated that *“(1) in ascertaining the net assessable income of a person for any year of assessment, there shall be deducted from the assessable income of that person-*

*(a) all outgoings and expenses, other than expenses of a domestic or private nature and capital expenditure, wholly, exclusively and necessarily incurred in the production of the assessable income;”*

It is well-known that the words “wholly, exclusively and necessarily” are notoriously rigid, narrow and restricted. With these words in the present tax legislation, the chance of a salaried taxpayer claiming deductions is nearly zero (*Lomax v Newton (1953) 34 TC 558, 561-562*). In *D61/06 (IRBRD Volume 21, 3<sup>rd</sup> supplement)*, a teacher was unfairly disallowed expenses for purchase of books; in *CIR v Franco Tong Sui Lun, HCIA 2/2006*, a securities dealer was disallowed bad debts that were deducted from his commission income, etc. The Court and the Board of Review agreed that the expenditure incurred by the taxpayers would have enhanced the quality of the taxpayers’ work, were reasonable and deductible if the





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taxpayers were subject to Profits Tax. Nevertheless, the Court/Board decided that the expenditure were not "legally deductible" under Salaries Tax.

In *D102/03 (IRBRD Volume 18, 3<sup>rd</sup> Supplement)*, the Board of Review had paid regard to the inherent unfairness in the contrasting rules governing Salaries Tax and Profits Tax deductions. In other words, the present legislation in this respect is not neutral and inequitable.

### RECOMMENDATIONS –

- Establishing a **Tax Policy Steering Committee** (or, "special unit") under the Financial Services and Treasury Bureau to conduct a thorough review of the deduction provisions for Property Tax and Salaries Tax with a view to maintaining neutrality, simplicity and equality
- Increasing the allowance for repairs and outgoings in section 5(1A) of the IRO from 20% to 30% pending the result of the review.

Our Society has been supporting Hong Kong since 1913 and it is our wish that Hong Kong will strive and prosper in the future.

We will be happy to answer any further questions that you may have. Should you require more information, please do not hesitate to contact the undersigned or Ms. Elizabeth Law, Chairman of our Taxation Committee, or Mr. Chan Cheong Tat, Advisor to our Taxation Committee.

Yours sincerely,

CHOI Kwok Wai, Ronnie

President

The Society of Chinese Accountants & Auditors

c.c. Mr. K C Chan GBS, JP, Secretary for Financial Services and the Treasury