



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)

8 February 2018

The Honourable Mr. Chan Mo-po, Paul, GBM, GBS, MH, JP  
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.

## **RELIEF FOR SMALL AND MEDIUM ENTERPRISES (“SMEs”)**

### **A. Relief for Research & Development /Innovation & Technology Costs (“R&D”)**

We support the Government's efforts to develop innovation and technology. However, as it is expected that companies usually do not have profits during the first few years of research and innovation, the tax deduction will not be helpful or usable to inventors or entrepreneurs. It is therefore important that the threshold for approvals of the various fundings from Government fundings be set at such a level that the requirements will not stifle the creativity and innovation of the community. The 300 + 200 per cent tax deduction of the R & D expenditure will only be helpful to businesses, namely bigger corporations that have sufficient funds to endure the early stages of research and developments to see the fruition of the products.

### **RECOMMENDATIONS –**

- Losses for early years of R&D should not be disallowed due to the fact that the companies do not have income during those years to offset the losses.
- The threshold for approving loans and government fundings should be relaxed to encourage creativity and innovation, especially for individuals and smaller companies.



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### **B. Relief for SMEs - Applying for HK Tax Resident Certificate**

We understand that the escalated examination on the HK tax resident status is required by overseas tax authorities. It is more than a form filling exercise because a lot of information and documentary evidence of the business operations will need to be disclosed, thereby adding a lot of costs and burden to SMEs.

### **RECOMMENDATIONS –**

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

### **C. 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. There are provisions in the Inland Revenue Ordinance which are not consistent with the neutrality and equity principles.

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.



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### 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 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 **special committee** (or, “special unit”) to conduct a thorough review of the taxation policies in Hong Kong 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.



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### **D. Providing a More Favourable Business Environment - Streamlining Tax Administration**

The principle goal of taxpayers is to have tax matters resolved fairly with finality. If they have made taxes that are not agreed by the tax administration, one would expect the tax administration to inform the taxpayers as soon as possible. Under the Inland Revenue Department's "Assess First, Audit Later" system, taxpayers are often informed of the disagreements several years later and are liable to penalty even if there is no intention to evade or avoid tax.

There are always areas of uncertainty in the interpretation of tax law and practice. It is important for the tax administration to appreciate the value of certainty and to help taxpayers to achieve them by providing increased transparency and timely certainty. It is detrimental to taxpayers' relationship if tax administration seeks to raise estimated assessments without first raising enquiries and leaves to the taxpayer to discharge the onus of proof.

### **RECOMMENDATIONS –**

- Commissioning the Commissioner of Inland Revenue to review the "Assess First, Audit Later" system with a view to improving certainty of taxpayers' tax matters.
- Defining loss statement as an assessment in order to provide finality for loss cases.
- Reversing the onus of proof in certain circumstances.
- Reviewing the penalty provisions to restrict penalty to interest in cases where there is no intention to evade tax.



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### **E. 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 SMEs 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.

### **F. BUSINESS REGISTRATION FEE**

Under the current inflationary economy, the Government should continue to attract investors to carry on business in Hong Kong and to help reduce the burden of small and medium sized businesses.

#### **RECOMMENDATIONS –**

- Exempting from payment of business registration fee and levy for one year.



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### RELIEF FOR INDIVIDUALS

#### **G. Widening the Tax Bands and Adjusting the Maximum Rate**

Under the present Salaries Tax regime, progressive rate is levied on assessable income after the deduction of allowances. With the increasing cost of living and the increases in minimum wages, the level of wages earned by taxpayers has increased. It is important that the tax rate be adjusted especially for the middle class salary earners who do not benefit from any other subsidies from the Government.

#### **RECOMMENDATIONS –**

- Raising the tax band from the present level of \$45,000 to \$50,000 to relieve the tax burden of the sandwich class taxpayers

#### **H. 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 encourages 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 be living 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.
- 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, we recommend that parents and grandparents residing outside of Hong Kong to be also eligible for the Allowances.



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### **I. 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. The present property prices pose hardships 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.

### **J. Providing Relief for High Medical Costs**

With the ageing population in Hong Kong, it is important that those who can afford to seek private medical help be encouraged to shoulder part of the responsibilities by going to private hospitals instead of drawing on public resources in public hospitals.

To relieve the financial burden to taxpayers who have responsibility for seriously ill dependent relatives, we propose to introduce “Seriously ill Dependent’s Allowance”.

#### **RECOMMENDATIONS –**

- Introducing a new “Seriously ill Dependent’s Allowance”.
- Providing deduction up to a maximum of \$50,000 per annum for Medical Insurance Premium or medical expenses.



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### PROMOTING CORPORATE SOCIAL RESPONSIBILITIES

#### **K. 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.

#### **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 carried forward during the year when the taxpayer incurred losses. In the circumstances, the allowable donations may be limited to donations made by the taxpayer in the past 5 years.

#### **L. Special Tax Deductions for Equipments for the Elderlies**

As the population in Hong Kong is aging at a very fast pace, it is important that the whole community in Hong Kong be equipped to embrace this change.

#### **RECOMMENDATIONS –**

- Special deductions should be available for companies and individuals to develop equipments (including innovations in wheelchairs, beds and other eldercare equipments) or renovations made specially for the use of elderlies and the disabled.
- Exemptions for special fittings for elderlies or disabled persons in Motor Vehicles First Registration Tax.





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### **M. 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.

Many female homemakers who gave up their career to devote to their families possess high education level and precious working experience that can provide valuable manpower resources. Some grassroots female homemakers who shoulder family burdens lack the incentive to work and/or 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.

### **N. 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.



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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,

Andrew Chen  
President