



## Hong Kong Tax Newsflash

### Passage of tax deductions for domestic rents – effective from year of assessment 2022/23



Further to the introduction of the new tax deductions for domestic rents proposed in the 2022/23 Budget, the Inland Revenue (Amendment) (Tax Deductions for Domestic Rents) Bill 2022 (the "Bill") was passed by the Legislative Council on 22 June 2022.

Taxpayers liable to salaries tax or tax under personal assessment may claim deduction for the rent paid by him/her or his/her spouse (who is not living apart from him/her) as the tenant (or by both of them as co-tenants) in relation to a relevant year of assessment for renting eligible domestic premises. The annual maximum amount of allowable deduction is HKD100,000 for each year of assessment.

We set out below the key features of this new tax deductions:-

#### Eligible Persons

##### Taxpayer or his/her spouse (who is not living apart):-

- liable to salaries tax or tax charged under personal assessment
- signed and entered the tenancy agreement with the landlord

- **not** a legal and beneficial owner of any domestic property in Hong Kong
- **not** provided with a place of residence by his/her employer or an associated corporation of his/her employer at a subsidized rent or by way of rent refund
- **not** a tenant or an authorized occupant of a public rental housing flat

The landlord of the rented property is **not** an associate of the taxpayer or his/her spouse (e.g. the landlord is the taxpayer's spouse, or a parent, child, sibling or partner of the taxpayer or the taxpayer's spouse, or a corporation controlled by the taxpayer or the taxpayer's spouse)

### Eligible Rented Properties

- must be the taxpayer's principal place of residence in Hong Kong
- the tenancy (or a sub-tenancy) must be a **stamped tenancy agreement**
- a car parking space if the qualifying tenancy is procured in respect of a domestic premises and a car parking space (i.e. the car parking space is not a sublet)
- **not** apply to premises which is prohibited from being used for residential purposes or tenancy prohibited under any lease or Government lease,
- **not** apply to domestic property rented under a lease purchase agreement
- **not** apply to any domestic rent which is under any other provision of the Inland Revenue Ordinance (e.g. the rent paid for any premises occupied for business use should be allowable for deduction as business expense under profits tax)

### Allowable Deduction Amount

- only allowed for rent actually paid, subject to the **ceiling of HKD100,000** for each year of assessment with **no limit for entitlement period**
- if there is more than one tenant under a tenancy agreement, deduction ceiling is to be **reduced in proportion to the number of co-tenants**
- if a tenancy period falling in a year of assessment is less than 12 months, the deduction ceiling is to be **reduced by reference to the tenancy** period for which the rent is paid in the year of assessment
- if the **taxpayer is married** and not living apart from his/her spouse, the total amount of deduction allowable to the taxpayer or the taxpayer's spouse (or both of them) is the amount of rents paid under the tenancy or the deduction ceiling for the tenancy for the year of assessment, whichever is lesser (i.e. the taxpayer and his/her spouse can determine their portion of deduction amount to be claimed)
- if the taxpayer claim deduction for the rent paid by him/her or his/her spouse as the tenant(s), the taxpayer and his/her spouse cannot be allowed deduction for the same sum of rent
- if there is more than one tenancy in relation to a year of assessment, the amount of allowable deduction for the year of

assessment is the aggregate of the amount determined in accordance with the above principle for each of the tenancies

### Other Points to Note

- **retain documentary evidence** showing that the premise was used as place of residence such as utility bills (including water, electricity and gas bills) and resident card, and provide upon request
- If a taxpayer has more than one place of residence in Hong Kong? Generally, the place of residence in which the taxpayer and his/her family have spent the majority of their time is taken as their **principal place of residence**.

### Our Comments

The new measure aims to ease the tax burden on taxpayers liable to salaries tax and tax under personal assessment who do not own any domestic property in Hong Kong by allowing the rent deduction. We therefore welcome the introduction of the tax deductions for domestic rents as it can also reduce the tax burden for those taxpayers who do not own property or do not receive housing benefits from employer.

The eligible taxpayers can now provide their expected amount claimed for domestic rent paid in relation to the year of assessment 2022/23 in their 2021/22 Individual Tax Returns. The Inland Revenue Department will take into account the relevant deduction claim when assessing the provisional salaries tax for year of assessment 2022/23.

If the taxpayers have already submitted their 2021/22 tax returns, they can still after receipt of the salaries tax demand note, apply for the holding over of payment of the provisional salaries for the year of assessment 2022/23 in respect of the deduction. The time limit for the application is 28 days before the due date for payment of the provisional tax, or 14 days after the date of the notice for payment of the provisional tax, whichever is later.

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