

**ACCA 香港分會  
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財政預算案建議**

**ACCA Hong Kong  
Budget Submission  
2014/15**



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# EXECUTIVE SUMMARY

Because of the challenges ahead in overseas economies, Hong Kong will inevitably be hit should there be any negative developments. Hong Kong therefore needs to strengthen itself and ensures the continuous provision of a business enabling environment, which would help businesses withstand challenges.

ACCA Hong Kong believes that tax measures can be introduced to achieve a business enabling environment, and the following tax related recommendations are made for the purpose of creating a level playing field for businesses of all sizes and types:

- Streamline the administrative procedures for taxpayers to enjoy the benefits available under tax treaties
- Conduct a comprehensive study between the New Companies Ordinance and the Inland Revenue Ordinance, to ensure tax certainty
- Introduce group loss relief
- Allow losses to be carried back
- Treat statements of loss in the same way as notices of assessment
- Allow a super deduction for qualifying research and development expenditure
- Relax the conditions for claims of qualifying research and development expenditure
- Introduce incentives for regional headquarters / service centres
- Support entrepreneurship and business start-ups
- Allow a super deduction for plant and machinery used in environmental protection

To the wider community, ACCA Hong Kong has the following proposals instead of a one-off cash rebate:

- Widen the income bands under salaries tax

- Adjust personal allowances
- Align the residence requirement for the claim of dependent parent allowance (and dependent grandparent allowance) to that of the monthly Old Age Allowance
- Allow the dependent to nominate the taxpayer to claim the full deduction of home loan interest
- Allow a tax deduction for the premium of medical insurance, capped at \$15,000 per year of assessment;
- Allow a tax deduction for the wages of domestic helper actually incurred and capped at the minimum wage amount for each year of assessment;
- Remove the restriction for married person in electing personal assessment

# PROPOSALS

## **1 Business Enabling Environment**

Despite a moderate growth in the first half of 2013, Hong Kong's economy still faces a number of economic uncertainties due to the uneven paces of recovery of the economy in the developed countries. Being a small and open economy, Hong Kong is subject to the impact of global economic development. ACCA Hong Kong has advocated for long that the Government needs to create a business enabling environment to enhance Hong Kong's competitiveness which can in turn help businesses grow and survive. In doing so, ACCA Hong Kong believes that the Government will fulfill its role as a facilitator in the economic development.

### **1.1 Implementation details under tax treaties**

ACCA Hong Kong appreciates the Government's effort in expanding the tax treaty network in recent years. To ensure taxpayers can truly benefit from the tax treaties, we suggest that the Government should further consider the implementation details under the tax treaties and to streamline the implementation details. The Government should also allocate sufficient resources in the related administrative procedures required.

### **1.2 Implications of the New Companies Ordinance**

The New Companies Ordinance will be effective on 3 March 2014. We urge the Government to conduct a comprehensive study to ensure that the provisions in the Inland Revenue Ordinance are able to interface with those new provisions in the New Companies Ordinance which have tax implications. One of the examples is the provisions

under the New Companies Ordinance to allow amalgamation of companies. Under the current tax legislation, the tax treatment of an amalgamation is not particularly specified. In order to provide tax certainty to taxpayers upon the implementation of the New Companies Ordinance, we recommend that a comprehensive study to identify and bridge any “gaps” between the two legislations should be conducted. Where amendments to the tax legislation is not considered necessary, we suggest that guidelines should be issued to clarify any tax implications of the new provisions in the New Companies Ordinance, where applicable.

### 1.3 Group loss relief

ACCA Hong Kong reiterates its proposal for group loss relief based on the fundamental principle of equity for a good tax system. As a matter of commercial reality, it is common to have separate operating companies established under one or more holding companies, which are effectively arms or divisions of a central unit. To achieve tax equity, the taxation of these group companies should be treated as a single entity so that losses of one company can offset the taxable profits of another company within the same group.

Under the current tax system, tax losses can be carried forward without any time limit for setting off future assessable profits. Hence a group relief only creates a temporary timing difference in tax revenue collection. However, it enhances Hong Kong’s tax competitiveness as many other major jurisdictions around the world and regional competitors have already implemented similar relieves.

### 1.4 Treatment of tax loss

We also reiterate our recommendation that tax loss of a business be allowed to be carried back to set off against the assessable profits in the preceding year. This is in line with a number of international as

well as regional tax systems including the United States, the United Kingdom, Canada, France, Germany, Australia, and Singapore.

Allowing tax loss to be carried back encourages growth and investment as certain cash flow relief is available to loss making companies whilst profitable operations are encouraged to invest in new projects which do not immediately generate profits.

#### 1.5 Finalization of tax loss cases

Currently, a statement of loss issued does not constitute an assessment, and hence the 6 year limitation period is not applicable for a statement of loss; the Inland Revenue Department can therefore revise a statement of loss after 6 years. This creates uncertainty to an enterprise in its business planning. To add more tax certainty to a taxpayer, we suggest that a statement of loss should be accorded the same legal status as a notice of assessment. This also helps reduce the onerous obligation of taxpayers to keep business records beyond seven years.

#### 1.6 Super deduction for qualifying research and development expenditure

Many other jurisdictions provide incentives to encourage innovations such as super rate of tax deduction on the amount of “qualifying expenditure” ranging from 150% to 400%. Whilst innovation and technology industries are continuously identified by the Government as a significant contributor to the Hong Kong economy, incentives to encourage development in this regard appear to be insufficient. In order to encourage businesses to invest in significant research and development activities, we suggest a super deduction of 200% for qualifying research and development expenditure. This helps to promote the development of high tech products and products with significant intellectual property contents.

## 1.7 Relaxing the condition for tax deduction of research and development expenditure

According to the Inland Revenue Department's interpretation of the current tax legislation, an item of research and development expenditure is only deductible if the research and development activities are conducted in-house by the taxpayer or a payment is made to an approved research institute. Where the research and development work is outsourced and the expenditure is not paid to an approved research institute, the expenditure is not eligible for any tax deduction, even though the research and development activities may be conducted by other companies within the same group. This does not appear to fit the rationale of encouraging research and development as well as the commercial practices. We therefore recommend that any expenditure of qualifying nature should be allowed as a tax deduction no matter whether it is conducted in house by the taxpayer or outsourced to a third party.

## 1.8 Incentives for regional headquarters / service centres

Many jurisdictions in Southeast Asia have enacted tax concessions for regional headquarters to compete for foreign investments. To enhance Hong Kong's competitive edge in attracting foreign investors, ACCA Hong Kong reiterates its proposal to provide concessionary tax rates (e.g. half rate) for regional headquarters' activities which are of a substantial scale and are of the nature of investment, general management, financial management, and marketing with a broad geographic coverage. Given Hong Kong's proximity and close connection to the Mainland, such tax incentives would lure more foreign investors to set up their regional headquarters in Hong Kong in serving their investments in the Mainland.

## 1.9 Supporting entrepreneurship and business start-ups

There are about 300,000 small and medium enterprises (SMEs) in Hong Kong, which constitute over 98% of our business establishments and employ about 50% of our workforce in the private sector. Their vitality and business performance are therefore of crucial importance to the development of Hong Kong's economy. However, facing the raising business costs, it may now be challenging and difficult for SMEs to start up their businesses. We recommend that concessionary profits tax rate be given to new businesses with qualifying conditions within a limited timeframe in order to support these businesses in their start up stage.

## 1.10 Supporting environmental business

We appreciate that protection of the environment has been included in the Government's policy agenda, and the Government is committed to improving our environment, not just for the well-being of future generations but also for sustainable growth of businesses. However, implementation cost remains a concern for many businesses. As an environmental protection initiative, we suggest that a super deduction for tax purpose should be given to businesses for eligible costs of plant and machinery used in environmental protection.

## 2 Supporting the community

As noted from the figures provided in the consultation package, only 45% of the working population paid salaries tax in 2011/12. However, this population contributed over 10% of the government revenue. ACCA Hong Kong suggests that tax measures should be introduced to relieve the burden on this group of people in view of the rising living costs.

## 2.1 Widening the income bands under salaries tax

Under the inflationary environment caused particularly by the significant increase in housing expenses, taxpayers effectively have a higher tax burden year after year, in light that the income tax bands remain unchanged. We therefore recommend that income bands for the progressive tax rates under salaries tax be widened in order to lessen the overall salaries tax burden of individual taxpayers. We suggest that the widening of the income bands reflect an inflationary adjustment or be widened to \$50,000.

## 2.2 Adjusting personal allowances

Apart from widening the income tax bands, we also suggest that personal allowances be increased in order to keep up with inflation. This includes all the personal allowances such as basic allowance, child allowance, dependent parent allowance and all other personal allowances.

## 2.3 Aligning the “residence” requirement for dependent parent allowance (and dependent grandparent allowance) with that of the monthly Old Age Allowance

Currently one of the conditions for a taxpayer to be entitled to dependent parent and grandparent allowances is that the parents or grandparents are ordinarily residing in Hong Kong. We strongly recommend that the “residence” requirement for claims of dependent parent allowance and dependent grandparent allowance be amended. We propose to relax the “residence” threshold for the claim of dependent parent allowance and dependent grandparent allowance with reference to that for the Old Age Allowance, i.e. not more than 305 days a year for absence from Hong Kong.

## 2.4 Home loan interest

Under the current tax legislation, where a property is jointly owned by two taxpayers, each taxpayer is entitled to 50% deduction of the mortgage interest expense irrespective of who is obliged to the mortgage repayments. In reality, there are cases where a taxpayer jointly owns a property with their parents or dependents but bears the whole mortgage liability. However, under the current tax legislation, he / she cannot benefit from the interest deduction for the whole mortgage repayments. We suggest that the Government should relax the home loan interest provision and allow any direct dependents who do not have chargeable income to nominate the taxpayer to enjoy the full interest deduction under such circumstances.

## 2.5 Tax deduction for medical insurance premiums

There is a clear consensus among the community that aging population is causing increasing pressure on government expenditure for healthcare and social welfare services and hence needs to be addressed. ACCA Hong Kong considers that a tax deduction under salaries tax should be given for private medical insurance premiums so as to encourage the public to prepare for their own medical care expenses in the future. We recommend that the annual allowable deduction be capped at \$15,000 for a single person and at \$30,000 for a married couple.

## 2.6 Deduction for cost of employing domestic helpers

Nowadays, most couples in Hong Kong need to work in order to maintain their living standards especially under the great pressure of housing expenses. It is almost essential for them to employ domestic helpers in order to free themselves for work. ACCA Hong Kong suggests allowing a deduction equal to the actual wages for employing one domestic helper, capped at an amount equivalent to the minimum

wage of \$4,010 per month for each married couple or each single parent situation for every year of assessment so as to relieve the burden of the middle class.

## 2.7 Election of personal assessment

The spirit of personal assessment is to provide relief to persons who are eligible for tax reduction and hence to reduce their tax burden.

However, under the current legislation, where a married person elects personal assessment, he / she has to be jointly assessed with his / her spouse. Under this circumstance, a married person may not be able to enjoy the benefit of the relief under personal assessment just because of his / her marital status, all things being equal to another individual taxpayer. In addition, where personal assessment is elected, consent of the taxpayer's spouse is required. This is not in line with the practical situation in Hong Kong where spouses are financially independent.

ACCA Hong Kong strongly suggests that the restriction for married persons on the election of personal assessment be removed, i.e. individual taxpayers should be allowed to elect personal assessment on his / her own income regardless of his / her marital status. This also ensures a fair tax system where every taxpayer, irrespective of business or individual, can enjoy the benefit of relief where available.

## 3 **Control public expenditure**

We wish to reiterate the importance of constraining public expenditure and balancing the government's budget. Hong Kong has been following the principles of fiscal prudence and needs to keep the budget commensurate with the growth rate of GDP as well as to avoid any fiscal deficit. According to the Government statistics, public expenditure for 2013/14 is estimated to be 21.7% of the GDP while government revenue is only 20.2% of the GDP. We urge the

Government to prioritise government spending so as to utilise the funds in the appropriate sectors and to support the economic development. A mechanism can be considered to be put in place to review whether there is any room for cost savings, and to ensure that there are appropriate allocations of budget to fulfill the genuine needs in particular sectors.

# SUMMARY

ACCA Hong Kong believes that a competitive tax system is an integral part of a good Government economic policy, and budgetary measures can be used to steer long-term economic development. We understand that some proposed tax incentives will cause a short-term reduction in revenue, but we trust that all of them are aimed at the long term objective to sharpen our competitive edge in steering future business growth. We believe our proposals are sustainable within the current fiscal strength and beneficial to the long term economic development of Hong Kong.