Government starts legislative process on tax deduction for domestic rent

The Inland Revenue (Amendment) (Tax Deductions for Domestic Rents) Bill 2022 will be gazetted on May 6 and introduced into the Legislative Council (LegCo) on May 11. It seeks to implement the tax deduction for domestic rent proposed in the 2022-23 Budget. The Government hopes to secure passage of the Bill before the summer recess of the LegCo this year, so that the measure could be implemented from the year of assessment (YA) 2022/23.

Eligible taxpayers can provide information about their expected domestic rent paid in relation to YA 2022/23 in the tax returns for YA 2021/22 to be issued this June. Upon passage of the Bill, the Inland Revenue Department will take into account the deduction when assessing the provisional salaries tax for YA 2022/23.

A government spokesperson said today (May 4), "The measure aims at easing the burden on taxpayers liable to salaries tax and tax under personal assessment who do not own any domestic property. It is expected to benefit about 430 000 taxpayers. The government revenue forgone will amount to about $3.3 billion per year."

According to the Bill, a taxpayer 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 tenant (or by both of them as co-tenants) in relation to a relevant YA for renting eligible domestic premises. The proposed maximum amount of allowable deduction is $100,000 for each YA.

To meet the eligibility, the relevant premises must be the taxpayer's principal place of residence, and the relevant tenancy must be stamped.

To ensure that it is a targeted measure that supports taxpayers who are most in need, forestall abuse, and prevent potential double tax benefit or tax avoidance, the Bill proposes to provide for certain circumstances in which the deduction is not allowed, including:

– the taxpayer or his/her spouse (who is not living apart from the taxpayer) is a legal and beneficial owner of any domestic premises in Hong Kong;
– the landlord or principal tenant of the rented domestic premises is 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 his/her spouse);
– the taxpayer or his/her spouse (who is not living apart from the taxpayer) is provided with a place of residence by his/her employer;
– the taxpayer or his/her spouse (who is not living apart from the taxpayer) is a tenant or authorised occupant(s) of a public rental housing flat;
– the rented premises are not allowed for residential use or the tenancy is

prohibited under any law or a government lease;
– the taxpayer or his/her spouse has entered into a lease purchase agreement in respect of the premises concerned with the landlord;
– the sum representing the domestic rent is allowable as a deduction under any other provision of the Inland Revenue Ordinance; or
– the taxpayer or his/her spouse (who is not living apart from the taxpayer) has been allowed deduction for any other domestic rent paid in respect of any other domestic premises for the same period.

The amount of deduction allowable to a taxpayer is the amount of rent paid under the tenancy in relation to the YA or the deduction ceiling for the tenancy for the YA, whichever is less. If there is more than one tenant under the tenancy, the deduction ceiling will be reduced in proportion to the number of co-tenants. If the tenancy period covers less than 12 months of a YA, the deduction ceiling will be reduced in proportion to the tenancy period falling within the YA.

To facilitate the filing of tax returns by taxpayers, the Inland Revenue Department website has provided explanations on the details of the tax deduction for domestic rent as proposed in the Bill, including the detailed deduction rules. For more information, please refer to the following link: www.ird.gov.hk/eng/tax/drd.htm.