

# Gazettal of Inland Revenue (Amendment) (Tax Deductions for Assisted Reproductive Service Expenses) Bill 2024

The Government published in the Gazette today (November 29) the Inland Revenue (Amendment) (Tax Deductions for Assisted Reproductive Service Expenses) Bill 2024 (the Bill) to amend the Inland Revenue Ordinance (Cap. 112).

The Bill will stipulate provisions for a tax deduction for assisted reproductive (AR) service expenses under salaries tax and personal assessment starting from the year of assessment 2024/25. The tax deduction is one of the measures announced in the 2023 Policy Address to promote fertility by relieving the financial burden incurred by the expenditure on AR services to encourage couples facing difficulties in conceiving to seek medical assistance, with a view to tackling the current situation of low birth rate in Hong Kong.

Only taxpayers receiving AR services for medical reasons may benefit from the tax deduction. They include (i) infertile couples or persons under specified circumstances, and (ii) cancer patients or any other patients who may be rendered infertile as a result of chemotherapy, radiotherapy, surgery, or other medical treatment. To avoid incentivising the delay of childbearing plans, expenses on gamete freezing services for other reasons will not be eligible for the tax deduction.

The Bill will set out the scope of qualifying AR services for the tax deduction, namely services of providing reproductive technology (RT) procedures, as well as services of the handling, storing and disposing of gametes or embryo used or intended to be used in connection with an RT procedure, pursuant to an artificial insemination by husband licence, a treatment licence, or a storage licence issued by the Council on Human Reproductive Technology (CHRT). The CHRT updates and publishes the list of licensed centres regularly on its website ([www.chrt.org.hk](http://www.chrt.org.hk)) for public reference.

The Bill will also stipulate that the relevant expenses paid by a taxpayer, by the taxpayer's spouse (who is not living apart from the person), or by both of them for the qualifying AR services are allowable deductions for the taxpayer. The maximum amount of deduction allowable for a year of assessment is \$100,000. As for married persons, the maximum amount of deduction allowable to the both of them is \$100,000.

The Bill will be introduced into the Legislative Council (LegCo) for scrutiny on December 11.

If the Bill is passed by the LegCo, the Government will issue a standard form of proof for qualifying AR service expenses (the Proof). The Proof should be signed by the registered medical practitioner who holds clinical responsibility of the relevant RT procedure (e.g. an accredited specialist or the person responsible of the licensed centre), certifying the date and amount of qualifying expenses paid for the qualifying AR services received to assist taxpayer's claim of the tax deduction. Where circumstances warranted, the Inland Revenue Department may request the taxpayer to provide the Proof in support of the deduction claimed. If members of the public have paid for AR service expenses on or after April 1 this year and intend to claim tax deductions for such expenses upon implementation of the proposed tax deduction, they should keep relevant documents including receipts as proof to obtain the Proof retrospectively from the licensed centre which provided the relevant services.

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## **Red flags hoisted at some beaches**

Attention TV/radio announcers:

Please broadcast the following as soon as possible:

Here is an item of interest to swimmers.

The Leisure and Cultural Services Department announced today (November 29) that due to big waves, red flags have been hoisted at Big Wave Bay Beach and Stanley Main Beach in Southern District, Hong Kong Island; and Silverstrand Beach and Clear Water Bay Second Beach in Sai Kung District. Beachgoers are advised not to swim at these beaches.

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## **Commencement notice for Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Ordinance 2022 gazetted**

The Government published in the Gazette today (November 29) the Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Ordinance 2022 (Commencement) Notice (the Commencement Notice) to appoint May 1, 2025, as the day on which the Employment and Retirement

Schemes Legislation (Offsetting Arrangement) (Amendment) Ordinance 2022 (the Amendment Ordinance) comes into operation.

Enacted by the Legislative Council in June 2022, the Amendment Ordinance seeks to abolish the use of the accrued benefits derived from employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP) and long service payment (LSP) (the offsetting arrangement). Employers may continue to use the accrued benefits of their voluntary contributions and gratuities based on employees' length of service to offset SP/LSP.

The abolition of the offsetting arrangement has no retrospective effect. If an employee's employment commenced before the effective date of the Amendment Ordinance (the transition date), the employer can continue to use the accrued benefits of the MPF contributions (irrespective of whether the contributions are mandatory or voluntary; and irrespective of whether the contributions are made before, on or after the transition date) to offset the employee's SP/LSP for the employment period before the transition date.

The abolition of the offsetting arrangement will also be applicable to occupational retirement schemes under the Occupational Retirement Schemes Ordinance (Cap. 426), the two school provident funds under the Grant Schools Provident Fund Rules (Cap. 279C) and Subsidized Schools Provident Fund Rules (Cap. 279D) and overseas occupational retirement schemes joined by employees from outside Hong Kong which are exempted from the MPF System.

To tie in with the abolition of the offsetting arrangement, the Government will launch the 25-year Subsidy Scheme for Abolition of MPF Offsetting Arrangement on May 1, 2025, to share out the SP/LSP expenses of employers after the abolition of the offsetting arrangement.

"The Government is implementing the preparatory work, and will continue to conduct extensive publicity to help employers and employees understand the abolition of the offsetting arrangement," the Government spokesman said.

The Commencement Notice will be tabled at the Legislative Council on December 4 for negative vetting.

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## **HKSAR Government firmly rejects and strongly disapproves of European Parliament's resolution**

The Hong Kong Special Administrative Region (HKSAR) Government today (November 28) firmly rejects and strongly disapproves of the groundless

attacks, malicious slanders and smears against various aspects of the HKSAR in the so called resolution on Hong Kong passed by the European Parliament.

A Government spokesman solemnly pointed out, "We strongly condemn any suggestion of imposing unilateral sanctions on any officials of the HKSAR Government based on groundless accusation with no factual basis. The officials will not be threatened by such barbaric and despicable acts.

#### Hong Kong National Security Law and Safeguarding National Security Ordinance

All countries in the world are duty bound to safeguard their national security, and the HKSAR, as an inalienable part of the People's Republic of China, is no exception. The Hong Kong National Security Law and the Safeguarding National Security Ordinance are compatible and complementary, jointly establishing a comprehensive and effective legal system for safeguarding national security and ensuring the effective protection of national security. This gives full play to institutional advantages, building a strong line of defence to maintain security and stability in the HKSAR, as well as providing solid institutional safeguards to promote good governance. Implementation of relevant legislation has enabled the livelihood and economic activities of the Hong Kong community, and as well the business environment, to return to normalcy. People living, and businesses operating, in Hong Kong have experienced the major transition from chaos to order herein.

#### Press freedom

Hong Kong citizens enjoy freedom of the press and freedom of speech as protected under the Basic Law and the Hong Kong Bill of Rights. In fact, the Hong Kong National Security Law and the Safeguarding National Security Ordinance clearly stipulate that human rights shall be respected and protected in safeguarding national security. The rights and freedoms, including the freedoms of the press, of speech and of publication, enjoyed by Hong Kong people under the Basic Law and the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights as applicable to the HKSAR, are protected in accordance with the law.

Like all other places in the world, such rights and freedoms are not absolute. Journalists, like everyone else, have an obligation to abide by all the laws. Their freedom of commenting on and criticising government policies remains uninhibited as long as they do not violate the law. The court, in its reasons for verdict in a recent case of 'conspiracy to publish seditious publication', has analysed in detail the duties and responsibilities of the media, specifically highlighting that, according to Article 19(3) of the ICCPR, when the media and relevant personnel publish opinions, information and articles, they must observe and discharge 'special duties and responsibilities', including protection of national security or public order, or of public health or morals.

The court further cited precedents from the European Court of Human

Rights regarding press freedom, pointing out that the European Convention on Human Rights does not guarantee a wholly unrestricted freedom of speech even with respect to press coverage on matters of serious public concern. The most crucial point is that journalists must act in good faith and on accurate factual basis and provide reliable and precise information in accordance with the tenets of 'responsible journalism' in order to enjoy the protection of their rights to freedom of speech and press freedom.

In fact, since the implementation of the Hong Kong National Security Law and the Safeguarding National Security Ordinance, the media landscape in Hong Kong has remained vibrant.

Fair and timely trial

The HKSAR law enforcement agencies have been taking law enforcement actions based on evidence and strictly in accordance with the law in respect of the acts of the persons or entities concerned, paying no regard to their political stance, background or occupation of the person or organisation involved. Any suggestion that certain individuals or organisations should be immune from legal consequences for their illegal acts, including those involving collusion with foreign or external forces, is no different from advocating a special privilege to break the law, and this totally runs contrary to the spirit of the rule of law.

As guaranteed by the Basic Law and the Hong Kong Bill of Rights, all defendants charged with a criminal offence shall have the right to a fair trial by the judiciary exercising independent judicial power. The Basic Law also provides that the courts of the HKSAR shall exercise judicial power independently, free from any interference.

The Correctional Services Department (CSD) is committed to ensuring that the custodial environment is secure, safe, humane, appropriate and healthy, and have put in place established mechanism to ensure the rights of persons-in-custody (PICs) are protected, including arrangement of regular inspection of independent visitors, namely Justices of the Peace. Adequate medical care is also provided in all institutions. The HKSAR Government emphasised that the CSD adopts the above arrangements when handling matters related to inmate Lai Chee-ying, which is the same as other PICs.

In the interests of a particular prisoner or for the maintenance of good order and discipline, the Commissioner of Correctional Services is empowered to make arrangements under section 68B of the Prison Rules that such prisoner should not associate with other prisoners (i.e. the so-called 'solitary confinement'). One of the purposes of the relevant arrangement is to ensure the personal safety and well-being of the PIC, which can be requested by the PIC themselves and approved by the Commissioner after considering the matter in accordance with the law; or the Commissioner may make such arrangements after considering the relevant factors in accordance with the legal requirements and procedures. It must be clarified that the arrangement for Lai Chee-ying's removal from association from other PICs has been made at his own request and approved by the CSD after considering all relevant factors in accordance with the law all along.

All cases concerning offence endangering national security will be handled in a fair and timely manner by the law enforcement, prosecution and judicial authorities of the HKSAR as required by Article 42(1) of the Hong Kong National Security Law. The time taken between the institution of prosecution and the completion of trial of each case depends on a multitude of factors. The prosecution and defence will adhere to any direction given by the court to ensure a timely trial.

In accordance with international law and international practice based on the Charter of the United Nations, safeguarding national security is an inherent right of all sovereign states. Many common law jurisdictions, including the United States, the United Kingdom and Canada, have enacted multiple pieces of legislation to safeguard national security. Turning a blind eye to the facts and making exaggerated remarks, the European Parliament has grossly interfered in China's internal affairs and Hong Kong's affairs, demonstrated typical despicable political manipulation and hypocrisy with double standards. The HKSAR despises the so called 'sanctions' and will not be intimidated. The HKSAR will continue to resolutely discharge the duty of safeguarding national security, and urges them to stop any untruthful reporting on and malicious smearing of the relevant judgment.

## Trade

Hong Kong, being one of the most open economies in the world, firmly supports free and open trade, and a multilateral trading system. This year, Hong Kong has once again been recognised as the world's freest economy. We strongly oppose any trade measures imposed out of political motives. The status of Hong Kong being a separate customs territory is guaranteed under Article 116 of the Basic Law, it cannot be revoked by any outside party.

Hong Kong and the European Union (EU) are important trading partners. The total value of bilateral merchandise trade reached HK\$510 billion in 2023. Hong Kong and the EU have been collaborating over the years, and any malicious acts that undermine the mutually beneficial relations would harm the interests of the EU and its companies.

The HKSAR Government has been establishing and maintaining economic and trade relations with places around the world in accordance with the 'one country, two systems' principle and has, pursuant to Article 156 of the Basic Law and legislation of the host countries, set up 14 overseas Hong Kong Economic and Trade Offices (ETOs) as the official representatives of the HKSAR, including the one established in Brussels, Belgium which is the official representation of the HKSAR Government to the EU and 15 countries in Europe.

The ETO in Brussels has been operating in accordance with local legislation and maintaining close liaison with interlocutors in governments, business, think tanks and various sectors to consolidate and enrich the ties of Hong Kong and the EU in different areas such as trade, investment, and arts and culture. The ETO in Brussels will continue to promote Hong Kong's unique advantages, tell the good stories of Hong Kong and, where necessary, refute erroneous reports and clarify misconceptions, so as to foster economic

and trade relations and co-operation on different fronts between Hong Kong and the EU on a mutually beneficial basis."

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## **HKSAR Government strongly rejects and condemns US for smearing HK through update travel advisory**

The Hong Kong Special Administrative Region (HKSAR) Government today (November 28) strongly opposes and condemns the United States (US) for its so-called travel advisory, which once again confuses the public and maliciously smears the HKSAR.

A spokesman for the HKSAR Government said, "As a highly international city, Hong Kong has frequent exchanges and close liaison with other countries, regions and relevant international organisations. Such normal exchange activities are protected by the Basic Law and the laws of Hong Kong. What the Hong Kong National Security Law (NSL) and other relevant laws regulate is the use of Hong Kong by foreign countries or external elements to carry out acts and activities endangering national security, which is obviously different from normal exchange activities."

"The laws related to national security provide clear definition to the offences. No one, including tourists, will unwittingly breach the law. The US has manipulated its foreign travel advisory into a political instrument, creating the illusion that all tourists coming to Hong Kong will be regarded as culprits endangering national security, thereby affecting travel. Such action bears ulterior motives, and is extremely appalling and irresponsible," the spokesman said.

"In fact, Hong Kong remains an attractive destination for tourists. Following the resumption of normal cross-boundary travel starting from February 2023, Hong Kong's tourism industry began to recover at full speed with a steady growth in visitor arrivals. From January to October 2024, some 36.7 million arrivals were recorded, representing a year-on-year increase of about 37 per cent. In addition, the international business community continues to have confidence in Hong Kong. A survey by the American Chamber of Commerce in Hong Kong earlier this year noted that nearly 80 per cent of its members have confidence in Hong Kong's rule of law. Close to 70 per cent of the respondents indicated that their operations had not been affected by the NSL. The US has substantial economic interest in Hong Kong. Over the past decade, it registered a trade surplus of about US\$270 billion with Hong Kong. Over 1 200 US companies operate in Hong Kong.

"Security and development work together like the two wings of a bird. Development requires a safe social environment. In March 2024, the HKSAR

fulfilled the constitutional responsibility and historic mission of enacting local legislation for Article 23 of the Basic Law. The newly enacted Safeguarding National Security Ordinance (SNSO) achieves convergence, compatibility and complementarity with the NSL. Together they form a comprehensive legal system and enforcement mechanism for safeguarding national security. Now that stability and security have been restored in Hong Kong, Hong Kong people can regain the enjoyment of rights and freedoms which many of them were unable to enjoy during the period of serious violence and Hong Kong version of 'colour revolution' in 2019. The HKSAR Government solemnly urges the US to discern fact from fallacy, stop immediately their wanton slanders and smears against the HKSAR," the spokesman reiterated.