



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)

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

21 January 2022

Dear Sir,

2022-23 Budget Submission

During the past two years COVID-19 pandemic together with the US-China geo-political tensions have all taken their toll in the economy, in Hong Kong and all over the world. Although Hong Kong is blessed with relatively low infection rate and received the support of the motherland in all their future plans; it is important that the HKSAR Government implement timely the effective relief measures to provide the right stimulus to support the various sectors of Hong Kong and to protect employments, especially those employed by the small and medium enterprises so that the community is prepared to face the coming 5th wave and future waves of the pandemic.

It is with these factors in mind that the Society of Chinese Accountants and Auditors ("SCAA") submits the following suggestions and recommendations:

RELIEF MEASURES IN RESPONSE TO THE COVID-19 PANDEMIC SITUATION

A. Relief Measures for Corporations and Enterprises

We understand that COVID-19 vaccine has been developed during the year and close to 80% of the citizens in Hong Kong have received at least the first dose which helped to suppress the infection while travel restrictions, social distancing and other preventive measures are still in force. As a result of the pervasiveness of the effects of the above factors, many businesses are still suffering from significant drop in revenues and an uncertain future. They must rely on the Government for financial support and financial assistances. Otherwise, further closures of businesses would result in serious damage to the economy and the population at large. Rescuing the economy from a collapsing situation would be more costly compared to providing assistances and support for businesses in Hong Kong.

RECOMMENDATIONS –

● **Tax Losses Carry Backward & Group Tax Losses Relief**

Many businesses are faced with severe shortages of cash. However, presently taxpayers are only allowed to carry forward their business losses to offset profits of future years. If the taxpayer incurred a loss in 2021/22, the first possibility of utilizing the tax losses to enhance their cash flows can only be materialized after the filing of their 2022/23 Profits Tax Returns and only during their payment of taxes at the end of 2023 (i.e. around 2 years from now). This will not be of any help to businesses that urgently need cash flows NOW for survival.



It is vital that Government supports be precisely given to entities that have previously proved to be successful. We believe that these entities usually have a higher chance of turnaround in the future as they have proven records of profitable operations. These are usually entities that hire more employees. We therefore suggest that amendments be made immediately so that businesses can carry back their 2021/22 taxation losses to offset their assessable profits for the two years of assessment 2019/20 and 2020/21, so that the Government can refund the taxes to the businesses as soon as they file their tax returns. Now that the present Inland Revenue Ordinance already allows the offsetting of tax losses with future tax profits, advancing this payment to an earlier date can really help businesses in need.

We also recommend that tax losses be allowed to be utilized amongst group companies, therefore increasing tax efficiency as well as the cash flows for groups during the difficult period of time. In addition, this will help businesses to prepare for the future BEPS provisions.

- **Waiving Business Registration fee**

As Business Registration Fee revenue only accounts for a small percentage of the Tax Revenue, we recommend that the Waiver of Business Registration fee for Y/A 2022/2023 be continued as an additional measure to support businesses.

B. Relief Measures for Individuals

After the cessation of the Employment Support Scheme and with the upcoming 5th wave, employees have been laid off due to the closure of businesses or reduction of staff members by employers. Many employees, especially those who may be the sole financial earners of their families and/or burdened with mortgages on their properties, have to confront with this sudden blow to the sources of income for their entire families. It is also important to take care of the mental and physical stability of citizens of Hong Kong.

RECOMMENDATIONS –

- One off tax rebate of 100% of taxes paid in the previous three years up to a maximum of HK\$20,000.
- Increasing the basic allowance from HK\$132,000 to HK\$180,000 (HK\$15,000 per month) and married person's allowance from HK\$264,000 to HK\$360,000 (HK\$30,000 per month), respectively.
- The first HK\$2 million of net chargeable income, to be taxed at one-half of the current standard tax rate (i.e. 7.5%); and the remaining net chargeable income to continue to be taxed at the existing 15% standard tax rate, in case standard tax rate applies.
- To continue for one more year the special measure on allowing payment of salaries tax by installments without imposing additional charges and interests.



RELIEF FOR SMALL AND MEDIUM ENTERPRISES (“SMEs”)

C. Review of Section 39E of the Inland Revenue Ordinance

When section 39E of the Inland Revenue Ordinance was enacted in 1986, the Administration stated that this section was intended to counteract tax avoidance through “sale and lease back” and “leverage leasing” financing arrangements. Many Hong Kong businesses that have factories in the Greater Bay area are suffering from the US–China tensions.

RECOMMENDATIONS –

- Reviewing section 39E of the Inland Revenue Ordinance to allow depreciation allowance for plant and machinery used outside Hong Kong, particularly in the Greater Bay Area.
- For the machinery and equipment leased outside Hong Kong by the SMEs whose leasing income is chargeable to tax in Hong Kong, the relevant depreciation allowance should be deductible for tax in Hong Kong.

PROMOTING CORPORATE SOCIAL RESPONSIBILITIES

D. Charitable Donations

During the outbreak of COVID-19 in these recent 2 years, many enterprises and individuals initiated donation campaigns to donate to charitable organizations for procurements of surgical face masks and hand sanitizer gel, etc. for distribution to under-privileged groups. However, presently only cash donations up to 35% of assessable profits for the year will be allowed as a deduction. Therefore, it is expected that huge losses would be incurred or significant drop in income is expected to be experienced by many businesses and individuals. This may mean that NO or only very little deductions would be allowed for these kindhearted and socially responsible companies or individuals.

Donations to charitable institutions will surely relief part of the financial burden on the Government to the demands and needs of the under-privileged groups and the unsubvented educational and social welfare organizations during economic downturns.

RECOMMENDATIONS –

- Allowing 100% deduction for donations made by taxpayer to approved charitable organizations even when the taxpayer did not have any assessable profits for the year.
- Allowing deductible donations made in the Years of Assessment 2021/2022 and 2022/23 to be carried forward to future periods, PLUS allowing donations made in the years of assessment 2020/21, 2021/2022 and 2022/23 to be carried back for three years which promotes corporate social responsibilities and improve community harmony.



E. Special Tax Deductions for Equipment, Medicines and Doctor's Consultation Fees for The Elderlies

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

RECOMMENDATIONS –

- Special deductions should be made available for companies and individuals to develop equipment (including innovations in gerontechnology, e.g. wheelchairs, beds and other eldercare equipment, etc.) or renovations made especially for the use of elderly and the disabled.
- Exemptions for special fittings for elderly or disabled persons in Motor Vehicles First Registration Tax.

F. Empowering & Equality for Working Mothers or Working Fathers

In this difficult period, we propose to introduce the following measures to encourage homemakers to remain in or rejoin the workforce to help as a wage earner for families.

Many 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 and keep in the finances of the family. Some grassroots homemakers who shoulder family burdens lack the skills to work in the present environment. With the support from the Government, employers can attract talents, and Government's financial burden on public expenditure such as Comprehensive Social Security Assistance (CSSA) can be lightened.

RECOMMENDATIONS –

- Setting up a special Parental Program Fund so that, similar to other countries like Canada, UK or Singapore, etc., all maternity payments can be paid by the special Fund instead of having most of it being shouldered by individual employers. This will help alleviate the sexual inequality and discrimination for employees and also help encourage more homemakers to rejoin the work force.

G. Allowing Elderlies to Enjoy the Convenience of the Greater Bay Area

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. 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").



With the High Speed Rail and the Hong Kong-Zhuhai-Macao Bridge, the retirees and elderlies can take advantage of the lower costs for elderly/residential care homes and care workers by having the additional choice of retiring in the Greater Bay Area while maintaining good connectivity with the younger generations.

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 the Social Service Department, we recommend that parents and grandparents residing outside of Hong Kong be also eligible for the Allowances.
- Expenses paid for residential care homes situated outside Hong Kong should be an eligible expense for tax deduction. This will help to alleviate the demand for welfare support from the Government.

H. Development of Human Resources

As a result of the economic downturn and pressure faced by enterprises, we understand that some individuals might require totally different skills set and knowledge to cater to new employment or working environments in the coming year. Some individuals may also consider making use of their unpaid leaves in the pandemic outbreak period or business downturn to equip themselves with the new skills and knowledge.

RECOMMENDATIONS –

- Increasing Self-Education Allowance from HK\$100,000 to HK\$120,000 to encourage individuals to better equip themselves in the complex changing environment thereby reducing pressure to social security as well.
- Expanding the scope of Self Education Allowance from work-related education courses only to include new and different fields of educational courses.

BROADENING OUR REVENUE BASE

I. Reform Hong Kong’s Fiscal System to broaden our revenue base

The pandemic in 2021 again evidences that there are flaws and weaknesses in our fiscal system. We have been suffering from economic deficits for three consecutive years. This situation is most unsatisfactory in the long run. We submit that there is an urgent need to review our fiscal system in order to broaden our revenue base.



We are well aware that a consultation was conducted in 2006/07 to reform Hong Kong's tax system for broadening our tax base. The consultation appeared to focus on 'Goods and Services Tax ("GST")'. While labeling the consultation as "Broadening the Tax Base", it appeared to us that the exercise aimed at increasing our government revenue since no deduction on direct income tax was proposed to set off any increased revenue arising from the study. The consultation recognized that our narrow tax base would limit our ability to allocate resources to invest for the future and to respond to challenges in the long run. Yet there was no consensus on any solution to the problem.

The consultation report in 2007 recommended that the Government should continue to study options for broadening the tax base and address the fundamental issue at a suitable time in the future. The matter was however held in abeyance probably because we managed to recover within a short spell of time in 2003. The situations nowadays are very different. It is estimated that the economic downturn we are now facing may take several years to recover.

RECOMMENDATIONS –

- We recommend reopening the study on the reform of our tax system. The study should:
 - (i) Aim at 'broadening our tax base' instead of 'increasing our revenue'.
 - (ii) Cover all options instead of limiting to GST.
 - (iii) Place less reliance on sale of land in order to sooth the house prices.

REVIEWING HONG KONG'S TAX SYSTEM

J. Review Hong Kong's tax system

Our schedular tax system was derived from ancient United Kingdom precedent. The IRO provides different deduction requirements and tax rates for Profits Tax, Salaries Tax and Property Tax. These are against the neutrality and equity principles recognized worldwide; for example:

- (a) taxpayers subject to Profits Tax are enjoying more favourable deductions for outgoings and expenses;
- (b) taxpayers subject to Salaries Tax and Property Tax are unable enjoy the two-tier tax rates under Profits Tax.

Although individual taxpayers may be able to reduce their tax liabilities by electing personal assessment, the system does not eliminate the unfairness. After all, the United Kingdom no longer adopts the schedular tax system. We submit that an Income Tax system may streamline the deduction provisions and tax rates across the board.



RECOMMENDATION –

- We recommend reviewing the Hong Kong tax system and study the feasibility of adopting an Income Tax system in place of the schedular tax system.

REVIEWING THE INLAND REVENUE ORDINANCE (“IRO”) TO ACHIEVE FINALITY

K. Review the IRO to increase transparency and certainty and to achieve finality

The principal goal of taxpayers is to have their tax matters resolved fairly with finality. If they have made taxes that are not agreed by the tax administration, they would expect the tax administration to inform them as soon as possible. Finality is a basic right of taxpayers.

Taxpayers’ right to finality is at present impacted by the definition for assessment and the objection provisions.

Section 60 limits an assessor’s right to raise assessment or additional assessment to 6 years after the end of the year of assessment. Loss statement is not an assessment in terms of the IRO. There is no time limit for the Inland Revenue Department (“IRD”) to challenge losses beyond 6 years.

Section 64(2) requires the Commissioner of Inland Revenue (“CIR”) to adjudicate upon a taxpayer’s objections within a reasonable time. The IRO does not define “reasonable time”. The IRO also gives an absolute right to the CIR to make unconditional or conditional order in respect of the tax in dispute. If the CIR grants an unconditional stand over order, the taxpayer will have to suffer large interest on the tax stood over upon determination of the objections. If the CIR makes a conditional hold over order by purchasing a Tax Reserve Certificate (“TRC”), the taxpayer will be deprived of the use of the sums tied up in the TRC. In any event, taxpayers will suffer heavy financial loss by the IRD’s delay. *Yue Yuen Marketing Co., Ltd. v. CIR, HKAL 49/2009* and *Dairy Farm Establishment v. CIR, HCAL 234/2018* are typical complaints in this respect.

The delay in determining objections is particularly obvious in field audit and investigation cases. By issuing repeated protective assessments, demanding purchases of TRCs and delaying determination of the objections, taxpayers under investigation or field audit are often forced to give in. In the USA, the right of finality under the Taxpayer Bill of Rights states, “Taxpayers have the right to know the maximum amount of time they have to challenge the IRS’s position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.”

RECOMMENDATIONS –

- We recommend establishing a Task Force to review the IRO and to consider:
 - (i) Defining loss statement as an assessment in order to provide finality for loss cases;
 - (ii) Defining “reasonable time” for the purpose of section 64(2) of the IRO



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)

L. Promote Voluntary Disclosure

By taking reference to the publication of tax evasion case in the Mainland which is very alarming and creates effective deterrent for tax evasion. On releasing the news, the State Administration of Taxation of the Mainland (“SAT”) announced that taxpayers who volunteer to make self correction (自査自繳) would not be penalized.

Although IRD’s Departmental Interpretation and Practice Note 11 states that it is the practice of the CIR to be influenced where a person has made a full confession in respect of any offence to which he has been a party, very few taxpayers receive the message. After all, CIR’s undertaking on penalty is very vague. In this respect, SAT’s pronouncement of no penalty (免予行政處罰) is more appealing to taxpayers. In order to convince delinquent taxpayers to put their house in order, the Administration may consider launching a special exercise to promote voluntary disclosure. Penalties in these cases should be clearly defined, e.g. restricted to interest on tax undercharged.

RECOMMENDATIONS –

- Considering launching a special exercise to promote voluntary disclosure and to restrict penalty to interest on the tax undercharged for taxpayers who volunteer full confession.

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 of our Taxation Committee.

Yours sincerely,

WU Chun Sing, Parco
President

LAW, Elizabeth
Taxation Committee Chairman

Budget Submission Task Force of Taxation Committee

1. Law, Elizabeth (Chairman)
2. Chan Cheong Tat (Advisor)
3. Wong Lung Tak, Patrick (Deputy Chairman)
4. Chau Kam Wing, Donald
5. Chen Chi Hing, Andrew
6. Cheng Chung Man, Alan
7. Lau Kwok Hung, Kenneth
8. Wu Chun Sing, Parco

The Society of Chinese Accountants and Auditors was formed in 1913 and incorporated in 1971. 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.