

New Tax Deduction for Domestic Rents



The Inland Revenue (Amendment) (Tax Deductions for Domestic Rents) Ordinance 2022 (“the Amendment Ordinance”) was enacted on 30 June 2022 to provide a tax deduction for domestic rental expenses incurred by individual taxpayers, subject to fulfilment of certain conditions.

The Amendment Ordinance, which aims at easing the tax burden for individuals who do not own any domestic property, is applicable to any **year of assessment commencing on or after 1 April 2022 (i.e. the year of assessment 2022/23 and onwards)**.

Who is eligible?

An individual taxpayer who is chargeable to Salaries Tax or tax charged under Personal Assessment is eligible to claim a tax deduction for the domestic rental expenses paid by him/her or his/her spouse (who is not living apart from the taxpayer) as a tenant under a qualifying tenancy of domestic premises.

Domestic premises

The term “domestic premises” is defined in the Amendment Ordinance to mean a building in Hong Kong, or part of such a building (including a bed-space, crucible, room, floor and portion of a floor), that is not prohibited by or pursuant to any law or by any specified instrument (e.g. Government lease, occupation permit, etc.) from being used for residential purposes.

Qualifying tenancy

In order for a taxpayer to be eligible for domestic rent deduction, the rented domestic premises must be used by the taxpayer as his/her principal place of residence in Hong Kong. In addition, the agreement for the qualifying tenancy (or sub-tenancy) of the domestic premises must be stamped in accordance with the Stamp Duty Ordinance (except one which is procured in respect of any domestic premises leased by the Government or the Financial Secretary Incorporated as an agent of the Government at a rent of a fair market value).

Maximum amount of allowable deduction

The maximum amount of domestic rent deduction (“deduction ceiling”) under the Amendment Ordinance is HK\$100,000 per year of assessment.

If there is more than one tenant under a qualifying tenancy, the deduction ceiling applicable to such tenancy will be reduced in proportion to the number of tenants under the tenancy.

In case the period of a tenancy for which the domestic rents are paid covers only a part of a year of assessment (i.e. less than 12 months), the deduction ceiling will be reduced in proportion to the length of the period covered by the tenancy within that year of assessment.

If domestic premises are used partly as a place of residence and partly for other purposes (e.g. for business use as a home office or front-shop back-home), the amount of rents paid under the tenancy allowable for deduction is such part of the amount that is reasonable in the circumstances of the case.

If a 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 rent paid under the tenancy for the year of assessment, or the deduction ceiling for the tenancy for the year of assessment, whichever is less.

Circumstances under which domestic rent deduction is not allowed

A deduction for domestic rents will not be allowed under the following circumstances:-

- the taxpayer or the taxpayer's spouse (who is not living apart from the taxpayer) is a legal and beneficial owner of any domestic premises in Hong Kong;
- the landlord of the tenancy concerned (or the principal tenant in the case of sub-tenancy) is an associate of the taxpayer or the taxpayer's spouse (e.g. the landlord is the taxpayer's spouse; a parent, child, sibling or partner of the taxpayer or the taxpayer's spouse; a partnership in which the taxpayer or the taxpayer's spouse is a partner; or a corporation controlled by the taxpayer or the taxpayer's spouse, etc.);
- the taxpayer or the taxpayer's spouse (who is not living apart from the taxpayer) is provided with a place of residence by his/her employer or an associated corporation of the employer; or the rents payable or paid by the taxpayer or the taxpayer's spouse in respect of a place of residence are wholly or partly paid or refunded by the employer or its associated corporation;
- the taxpayer or the taxpayer's spouse (who is not living apart from the taxpayer) is a tenant or an authorized occupant of a public rental housing flat of the Hong Kong Housing Authority or the Hong Kong Housing Society;
- the tenancy concerned is prohibited by any law or a Government lease;
- the taxpayer or the taxpayer's spouse has entered into a lease purchase agreement in respect of the premises concerned with the landlord;
- the rent is allowable as a deduction under any other provision of the Inland Revenue Ordinance (Cap. 112); or
- any rent paid in respect of any other domestic premises has been allowed to the taxpayer or the taxpayer's spouse (who is not living apart from the taxpayer) as a deduction for the same period for which the rent is paid.

Documentary evidence required for claiming domestic rent deduction

A taxpayer who wishes to claim domestic rent deduction in his/her individual tax filing should retain documentary evidence, such as utility bills (including water, electricity and gas bills), resident cards, etc., showing that the premises were used as his/her place of residence. Such documents are not required to be submitted to the Inland Revenue Department ("IRD") when the taxpayer files his/her Individual Tax Return. However, the taxpayer should retain sufficient and relevant documents and make sure that they are available for verification upon the IRD's request.

Provisional Salaries Tax for 2022/23

The domestic rent deduction as prescribed under the Amendment Ordinance is applicable to the year of assessment 2022/23 and onwards.

An individual taxpayer who is entitled to claim domestic rent deduction for 2022/23 may provide information about his/her expected amount of domestic rent to be paid for 2022/23 when filing his/her 2021/22 Individual Tax Return with the IRD. Upon receipt of the information provided by the taxpayer, the IRD may take into account the domestic rent deduction claim when assessing the taxpayer's Provisional Salaries Tax payable for 2022/23.

If a taxpayer does not make any domestic rents claim in his/her 2021/22 Individual Tax Return, he/she can still, upon receipt of the Notice of Tax Assessment demanding Final Salaries Tax for 2021/22 and Provisional Salaries Tax for 2022/23, apply to the Commissioner of the Inland Revenue to have the payment of the whole or part of the 2022/23 Provisional Salaries Tax held over on the grounds that he or she is entitled to claim a tax deduction for domestic rent in accordance with the Amendment Ordinance. The holdover application must be lodged on or before the deadline as stated in the Notice of Tax Assessment.

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